



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) 2016 Act

Chamber Ref: FTS/HPC/CV/21/2115

Re: Property at 37 Courthill Crescent, Kilsyth, G65 0EN (“the Property”)

Parties:

Mr Steven Galloway, 93 Southfield Road, Cumbernauld, G68 9DZ (“the Applicant”)

Miss Kerrie Lomas, 75 Low Craigends, Kilsyth, G65 0NZ (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

- 1) This was an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy of the Property by the Applicant to the Respondent commencing on 15 April 2019. The Tenancy Agreement was, however, not in a standard PRT style and was headed “Short Assured Tenancy Agreement”. Further, other documentation suggested that the Respondent had been a tenant, under an early lease on a different monthly rent, since at least October 2018. I could see no effect that either of these issues had on the application before me however.
- 2) The application was dated 31 August 2021 and lodged with the Tribunal on that date. The application was accompanied by a rent statement setting out arrears of £6,150, being sums said to be due from irregular payments in April and June

2020, and nil payments in May 2020 and then from July 2020 to March 2021. The lease for the tenancy accompanied the application and detailed a rental payment of £600 payable in advance on the 15th of each month.

The Hearing

- 3) On 9 December 2021, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote conference call at 14:00, I was addressed by Nicola Caldwell, a solicitor of TC Young, on behalf of the Applicant. There was no appearance by the Respondent.
- 4) As of 14:05, there was no appearance from the Respondent (that is, she did not call into the teleconferencing number, nor did she do so by the time the call concluded around 14:35). The Applicant’s agent stated that there had been no contact from the Respondent on the matter and that she had left the Property around 20 April 2021. The sum sought was the full arrears to the conclusion of the Tenancy. The Tribunal’s clerk confirmed that there was no contact from the Respondent on the application. I was thus satisfied to consider the application in full at the CMD in the absence of the Respondent.
- 5) The Applicant’s representative confirmed that the order for payment was still sought. I took the Applicant’s agent through the rental statement and noted that there was either an error in entering the payment of June 2020, or an error in calculating the balance arising. By my calculation, following the entries in the column setting out the payments received, I calculated the sum due to be £6,050. The Applicant’s agent agreed with this reading but did not have instructions on whether the error was an overstatement of the entry of the sum paid (said to be £650) or a miscalculation in the column setting out the balance (which gave credit of only £550 for the June 2020 payment).
- 6) I permitted the Applicant’s agent a brief adjournment and when we recommenced around 14:30, she confirmed that she had instructions from the Applicant to accept my arithmetic of the arrears at £6,050. She did not have formal instructions on whether the Applicant conceded he had made an error in his balance calculations, but she was satisfied that he took no issue with my reading of the figures.
- 7) The interest rate in the Tenancy Agreement was somewhat circular, seeking “interest... charged at the courts rate of Interest plus the Bank of England Base Rate” (*sic*). The Applicant’s agent sought interest on the sum sought under Procedure Rule 41A in the range of 2% to 3% which she thought reasonable in the circumstances. No motion seeking expenses was made.

Findings in Fact

- 8) The Applicant let the Property to the Respondent by an undated lease with a start date of 15 April 2019 under a Private Residential Tenancy (“the Tenancy”).
- 9) Under the Tenancy, in terms of clause 4.1, the Respondent was to make payment of £600 per month in rent to the Applicant in advance, being a payment by the 15th of each month to cover the month to follow.
- 10) As of 15 April 2021, there was unpaid rent of £6,050 being made up of a shortfall of rent of £650 on the rent due on 15 April, 15 May, and 15 June, and unpaid rent due on the nine rental payment dates 15 July 2020 to 15 March 2021 (each of £600).
- 11) The Tenancy came to an end on or about 20 April 2021 with no further rent sought by the Applicant against the Respondent for the period 15 to 20 April 2021.
- 12) On 31 August 2021, the Applicant raised proceedings against the Respondent for an order for payment of rent arrears of £6,150.
- 13) On 2 November 2021, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 9 December 2021 and the details for dialling into the conference call.
- 14) The Respondent provided no evidence of payment of any part of the said unpaid rent of £6,050.

Reasons for Decision

- 15) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. I was satisfied, on the basis of the application and supporting papers, that rent arrears of £6,050 were outstanding as of 20 April 2021.
- 16) As the application clearly set out the sums (albeit with the arithmetical error overstating the amount by £100 as I set out above), I was satisfied that the necessary level of evidence for such civil proceedings had been provided. No dispute was stated by or on behalf of the Respondent. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the amended sum of £6,050 against the Respondent.
- 17) I was satisfied that it was appropriate to award interest at 3% per annum from the date of Decision.

Decision

- 18) In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of £6,050 with interest at 3% per annum running from today's date.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

9 December 2021

Legal Member/Chair

Date
