



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/CV/21/2163

Re: Property at 2 Bowmore Crescent, East Kilbride, G74 5DD (“the Property”)

Parties:

Mrs Susan Hannay, c/o Tay Lettings Ltd, 8 Eagle Street, Craighall Business Park, Glasgow, G4 9XA (“the Applicant”)

Craig Muir and Jade Soler, residing at 2 Bowmore Crescent, East Kilbride, G74 5DD (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be made.

Background

The Applicant sought an order for payment of rental arrears totalling £6,490. The Applicant had lodged with the Tribunal Form F. The documents produced included a Tenancy Agreement, a statement of arrears of rent, and a correspondence log. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 11.30am on 2 December 2021 by telephone conference. The Applicant was represented by Ms C McKendrick of Tay Letting Ltd. Craig Muir represented both respondents. Mr Muir did not oppose an application to increase the sum applied for and admitted that the respondents owe the applicant £9,490.00. He said that he is concerned that a

payment order will damage his business prospects, and he intends to make payment tomorrow.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 13 November 2020. The tenancy commenced on 17 November 2020.
2. The initial rent in terms of the Tenancy Agreement was £2,950.00 per month.
3. The Respondents failed to make prompt and regular payments of rent. From September 2021 the rent was regularly in arrears. At the date the application was raised, there were arrears of rental totalling £6,490.00.
4. At today's date there are arrears of rent totalling £8,950.
5. The applicant's letting agents have charged the applicant an additional £540.00 for pursuing the arrears of rental. That sum is expenses incurred by the applicant in seeking recovery of arrears of rental.
6. The respondents agree that there are arrears of rental totalling £8,950 and that the sum of £540.00 is also due to the applicant. Sheriff Officers served notice of this hearing on the respondents on 3 November 2021.
7. Relying on Rule 13 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the Applicant sought leave to amend the sum applied for by increasing the sum sought as arrears of rent to the correct figure of £8,950.00. That application is not opposed. The amendment of the sum sought is not a new matter and is simply a matter of arithmetic. The sum sought in this application is now a total of £9,490.00, which is the amount of arrears of rental together with expenses in recovery at today's date.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £9,490.00. Rent was lawfully due in terms of clause 8 of the Tenancy Agreement at the rate of £2950.00 per month. Because prompt and regular payments of rent have not been maintained, arrears totalling £8,950.00 have accrued. The applicant has incurred additional charges totalling £540.00 in attempting to recover arrears of rent. Those two figures total £9,490.00, which is the sum applied for. The respondents offer no defence to the application. Instead, they seek a continuation so that payment can be

made. The application to continue is opposed. The applicant is entitled to a payment order.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for payment.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.



Legal Member

Date 2 December 2021