

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) Act 2016 (“the Act”) and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Reference number: FTS/HPC/CV/21/2575

Re: Property at 37D Friar Street, Perth, PH2 0EG (“the Property”)

The Parties:

Mrs Katrina Irvine, Edendale, Isla Road, Perth, PH2 7HQ (“the Applicant”) per her agents, Messrs Macnabs LLP, 10 Barossa Place, Perth PH1 5JX (“the Applicant’s solicitors”)

Mr Callum Ross and Ms Laura Altinsoy, 37D Friar Street, Perth, PH2 0EG (“the Respondents”)

Tribunal Members:

Karen Moore (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment in the sum of EIGHT THOUSAND FIVE HUNDRED AND EIGHTY POUNDS (£8,580.00) Sterling with interest at the rate of 2% per annum be granted.

Background

1. By application dated on 19 October 2021 (“the Application”), the Applicant’s solicitors applied to the Tribunal for an Order for payment of rent due and owing amounting to £7,410.00 with interest at 8%. The Application comprised a copy of the tenancy agreement and a statement of rent due and owing to September 2021. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 23 December 2021 at 10.00 by telephone conference and intimated to the Respondents by Sheriff Officer service.
2. The CMD took place on 23 December 2021 at 10.00 by telephone. The Applicant did not take part and was represented by Ms. Carver of the Applicant’s solicitors. Neither

Respondents took part. No written representations were received from either Respondent. Ms. Carver confirmed that the rent arrears have risen to £8,580.00, that no contact had been made by the Respondents since the rent arrears began accruing and that no payments have been made since February 2020

3. The Tribunal advised Ms. Carver that it was satisfied that there are rent arrears and, as the Applicant had another application with the Tribunal for eviction on the grounds of, inter alia, rent arrears and as the arrears appear to have accrued, the Tribunal adjourned the CMD to the date of the Hearing in the eviction action to allow the Application to be amended in respect of the sums due.
4. By email of 13 January 2022, the Applicant's solicitors amended the sum sought in the Application to £8,580.00, which amendment was intimated to the Respondents.

Hearing

5. A Hearing took place on 19 January 2022 at 10.00 by telephone. The Applicant did not take part and was represented by Ms. Carver of the Applicant's solicitors. Neither Respondents took part. No written representations were received from either Respondent.
6. Ms. Carver confirmed the sum sought is £8,580.00 with interest at the judicial rate of 8% per annum.

Findings in Fact

7. From the Application, the CMD and the Hearing, the Tribunal made the following findings in fact: -
 - i) There is a tenancy of the Property between the Parties at a monthly rent of £390.00 payable in advance
 - ii) Rent amounting to £8,580.00 to the end of January 2022 is outstanding and due and owing by the Respondent to the Applicant.

Decision

8. Having made those findings, the Tribunal proceeded to make an order for payment in the sum of £8,580.00.
9. With regard to the Applicant's claim for interest at the judicial rate of 8% per annum, the Tribunal took account of the facts that the Applicant could have acted earlier to prevent the level of arrears increasing and, had the Applicant not served an incorrect Notice to Leave, the arrears might not have accrued to this extent. Further, the Tribunal took the view that as base interest rates are less than 1%, the judicial rate, which has not been adjusted to reflect base rates and which is not binding on the Tribunal, is unduly punitive in the circumstances. Therefore, the Tribunal assessed that interest at 2% is just and reasonable.

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.

K Moore

21 January 2022

Legal Member/Chair

Date