



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

Chamber Ref: FTS/HPC/CV/21/3067

Re: Property at 1C Innes Park Road, Skelmorlie, PA17 5BA (“the Property”)

Parties:

Mr Colin Galloway, 12 Dog Close, Adderbury, Banbury, OX17 3EF (“the Applicant”)

Mr John Cole, 1C Inness Park Road, Skelmorlie, PA17 5BA (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member) and David MacIver (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in respect of rent arrears in the sum of £1950 be granted with interest thereon at the rate of 3% per annum from today’s date until payment.

Background

1. An application was made dated 8 December 2021 in terms of Rule 111 of the Chamber Rules for civil proceedings in relation to a private residential tenancy (along with a conjoined eviction application ref FTS/HPC/EV/21/3066). Along with the application form, the Applicant’s representative lodged the following documents:
 - Copy tenancy agreement
 - Rent statement
2. In terms of the application form, the Applicant sought a payment order in the sum of £1050 plus interest in respect of rent arrears.
3. The application was accepted and assigned to a Case Management Discussion today. Intimation of the application and the case management discussion was served on the Respondent by Sheriff Officers on 24 January

2022. The Respondent was invited to make written representations by 10 February 2022. The letter intimating details of the application and case management discussion included the following paragraph:

“ The tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. If you do not take part in the case management discussion, this will not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.”

4. By email dated 10 February 2022, the Applicant’s agent intimated a request to amend the sum sought in the payment order to £1950 in terms of Chamber Rule 14A. This amendment request had been intimated timeously on the Respondent.

5. No written representations have been received from the Respondent.

6. The day before the case management discussion the Applicant’s agents sent an email to the Tribunal with an updated rent statement showing that the arrears now stood at £2400.

The Case Management Discussion

7. The case management discussion took place today by teleconference. The applicant’s agent, Alexandra Wooley, Trainee Solicitor, Messrs. Bannatyne Kirkwood France & Co, appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent.

8. The Applicant’s agent advised that she was seeking the increased sum of £2400 as shown on the latest rent statement lodged with the Tribunal yesterday with interest thereon at the rate of three percent per annum. When asked about the lack of notice to the Respondent of the amended figure, the Applicant’s agent advised that it was just an unfortunate matter of timing that the date the rent fell due meant that there wasn’t time to give the Respondent the requisite notice in terms of Chamber Rule 14A.

Findings in Fact

9. A private residential tenancy agreement was entered into by the parties commencing 13 November 2019.

10. In terms of the private residential tenancy agreement rent was due to be paid in the sum of £450 per calendar month.

11. The Respondent has fallen into significant rent arrears which now total £2400.

Reasons for Decision

12. The Tribunal took into account the written submissions and paperwork before it along with the oral submissions of the Applicant's agent. There was nothing challenging this information. However, appropriate notice had not been given to the Respondent of the increased arrears figure of £2400 and the Respondent was not in attendance. Proper notice had been given of the previous increased rent arrears figure in the sum of £1950.

Decision

13. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an application for a payment order against the Respondent in the sum of £1950 in respect of rent arrears in terms of section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 with interest thereon at the rate of three percent per annum from today's date until 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.

A. M

25 February 2022

Legal Member/Chair

Date