



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/21/3094

Re: Property at 33 Gourdie Street, Dundee, DD2 4RL (“the Property”)

Parties:

Makars Holdings Limited, 1 Old Skene Road, Aberdeen, Kingswells, AB15 8QA (“the Applicant”)

Ms Samantha Tosh, 6A Balmoral Gardens, Dundee, DD4 8SB (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondent for the sum of £1606.75 with interest at the rate of three percent per annum from the 21st April 2022.

Introduction

This CMD concerned an Application for Civil Proceedings in relation to a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference due to the covid-19 pandemic.

1. Attendance and Representation

The Applicant was present and represented by Alexandra Wooley **Matheson**, Solicitor, Bannatyne Kirkwood France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG

The Respondent was not present. She was served personally by sheriff Officer on. 8th March 2022. The Respondent had not lodged written representations.

2. Preliminary Matters

The Respondent was not present. An application to amend the sum sought in the original application was made on 13th April 2022. This was sent to the Respondent. The Applicant sought to decrease the sum sought in the Application from £2205.11 to £1606.75. A payment made on 11th October 2021 by the Respondent of £598.36 had been missed from the rent statement lodged with the papers.

At the start of the CMD the Tribunal , the Respondent having been notified, amended the sum sought to £1606.75.

There were no other preliminary issues raised.

3. Summary of Hearing

The Applicant's representative sought a payment order for the sum of 1606.75 plus interest. She submitted that there has been no further payments since the Respondent vacated the tenancy and no attempts by the Respondent to respond to communication to get in touch for a payment plan to be arranged. The Applicant's representative submitted that there was no contractual provision for interest but she made submissions that she sought the sum of 3 percent at the discretion of the Tribunal. She said very little effort had been made from the tenant to repay the arrears and there was no indication the Respondent would. The Applicant's representative said the Tenancy ended on 8th November 2021.

The Applicant's representative set out that he sought an Order for Payment for the sum of £1696.75 in terms of Section 71 Private Housing (Tenancies) (Scotland) Act 2016 plus interest.

4. Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the CMD based on the information before the Tribunal. The Respondent had been intimated with an application for amendment on 13th April 2022 and had been personally served by Sheriff Officers service of the Application and notification of the CMD date on 8th**

March 2022. It was in the interests of the parties having regard to the Overriding objective to proceed.

2. The Applicant sought an Order for Payment.
3. The Tribunal was satisfied on the evidence that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.
4. There was a valid Private Residential Tenancy in place between parties dated 5th October 2020.
5. The rental payment in terms of this agreement was £675 per calendar month.
6. Rent due by the Respondent to the Applicant in terms of the rent statement lodged as of 13th April 2022 was £1606.75.
7. The Tribunal was satisfied on balance that it was appropriate to grant a Payment Order for £1606.75..
8. Accordingly, in terms of Section 71 of the 2016 Act the Tribunal granted a Payment Order against the Respondents.
9. The Tribunal considered that there was no contractual interest but the Applicant had sought interest in the Application. The Tribunal noted the Application to amend did also include a specific request for interest. In the circumstances and having regard to the pandemic the Tribunal in their discretion awarded interest at 3% but from the 21st April 2022.

5. Reasons for Decision in Absence.

The Tribunal heard from the Applicant's representative. There was substantial productions relating to the property and rent arrears. The Tribunal was satisfied on the basis of these productions and the personal service on the Respondent that a Payment Order be granted for £1606.75 with interest at 3% per anum from the 2st April 2022.

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.

Karen Kirk

21/04/2022

Legal Member/Chair

Date