



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/21/3100

Re: Property at 28 St Kilda Bank, Broomlands, Irvine, KA11 1HS (“the Property”)

Parties:

Mrs Tasleem Jabbar, Mr Abdul Jabbar, 108 Mountcastle Wynd, Kilwinning, KA12 6DH (“the Applicants”)

Miss Kelly Clark, 28 St Kilda Bank, Broomlands, Irvine, KA11 1HS (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs E Currie (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 should be granted in favour of the Applicants in the sum of £7990 with interest thereon at the rate of 3% above the Bank of England base rate.

Background

1. This is an application dated 15th January 2022, made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”). The Applicants were seeking an order for payment in the sum of £7990 with interest thereon at the rate of 8% in respect of the rent arrears arising as a result of a tenancy agreement between the parties commencing on 1st August 2020 at a monthly rent of £495.
2. The Applicants’ representative lodged a copy of the tenancy agreement and a rent statement.
3. Intimation of the application and Case Management Discussion was made upon the Respondent by Sheriff Officers on 28th February 2022.

Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 11th April 2022. The Applicants were not in attendance and were represented by Ms Saddiq, Solicitor. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
6. Ms Saddiq moved the Tribunal to grant an order for payment in the sum of £7990. Rent has been outstanding for a considerable period and arrears are continuing to accrue.
7. Responding to questions from the Tribunal regarding the rate of interest, Ms Saddiq said the tenancy agreement did not allow for a contractual rate of interest to be applied to the debt, however, it would be reasonable in the circumstances to apply interest at a rate of 8%, failing which a rate of 4%..

Findings in Fact and Law

8.
 - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 1st August 2020 at a monthly rent of £495.
 - ii. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - iii. The Applicants are entitled to recover rent lawfully due.
 - iv. Interest should be applied at the use value rate of 3% per annum above the Bank of England base rate.

Reasons for Decision

9. The Respondent has failed to make payment of rent lawfully due. The Applicants are entitled to recover rent lawfully due in terms of the tenancy agreement between the parties. Interest was applied to the sum at the use value rate of 3% per annum above the Bank of England base rate.

Decision

10. An order for payment is granted in favour of the Applicants in the sum of £7990 with interest thereon at the rate of 3% per annum above the Bank of England base rate, running from the date of the decision to grant the order 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.

Legal Member: Helen Forbes

Date: 11th April 2022