



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/21/3102

Re: Property at 1/L, 87 King Street, Dundee, DD1 2JY (“the Property”)

Parties:

Hussein Investments, Nobel Road, West Gourdie Industrial Estate, Dundee, DD2 4UH (“the Applicant”)

Miss Anjum Shah, 1/L, 87 King Street, Dundee, DD1 2JY (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal 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 Applicant in the sum of £3850 with interest thereon at the rate of 3% per annum above the Bank of England base rate.

Background

1. This is an application received in the period between 14th December 2021 and 5th January 2022 seeking an order for payment under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicant was seeking an order for payment in the sum of £2750 in respect of rent arrears, with interest thereon at the rate of 8% per annum. The Applicant’s representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property that commenced on 13th July 2021 at a monthly rent of £550, together with a rent statement and copy correspondence to the Respondent concerning the rent arrears, with delivery receipts.
2. Notification of the application and Case Management Discussion set down for 8th April 2022 was served by Sheriff Officers on the Respondent on 23rd February 2022.

3. By letter dated 1st March 2022, the Applicant's representative lodged an application to amend the sum sought to £3850.

Case Management Discussion

4. A Case Management Discussion ("CMD") took place by telephone conference on 8th April 2022. Neither party was in attendance. The Applicant was represented by Mr Alec Campbell, Solicitor.
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, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 17(2) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant and the material before the Tribunal.
6. Mr Campbell moved the Tribunal to grant an order in the sum of £4400, as a further month's rent had become due since the application to amend the sum sought was made. Mr Campbell said attempts had been made to contact the Respondent in terms of the letting agent's arrears protocol by letter and by visiting her. Mr Campbell had visited her to discuss the matter but she had refused to discuss matters. She has not responded to any attempts at contact and has provided no explanation as to why her rent is not paid.
7. Responding to questions from the Tribunal regarding the rate of interest, Mr Campbell accepted that the tenancy agreement did not allow for a contractual rate of interest to be applied to the debt, albeit paragraph 9 allowed for the recovery of costs relating to late rent.

Findings in Fact and Law

8.
 - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 13th July 2021 at a monthly rent of £550.
 - ii. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - iii. The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

9. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties. The Tribunal granted the application lodged on 1st March 2022 to increase the sum sought. The Tribunal did not grant the motion made at the CMD to further increase the sum, as an application was

required in terms of Rule 14A. 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 Applicant in the sum of £3850 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.

Helen Forbes

Legal Member/Chair

8th April 2022
Date