



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/21/3112

Re: Property at 31 Kenmure Drive, Bishopbriggs, G64 2RQ (“the Property”)

Parties:

Ms Yetundee Oluyom Adetola Abdul Aebayo, Flat 2, 42 Ashley Road, London, N19 3AF (“the Applicant”)

Mr Max Connor McAulay, Ms Arianna Sceni, Bloomfield House, Bloomfield Road, Lesmahagow, Lanark, ML11 0DF (“the Respondents”)

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 against the Respondents in the sum of £6059.85 with interest thereon at 3% per annum

Background

1. This is an application received in the period between 15th December 2021 and 19th 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 £6909.80 with interest thereon at the rate of 8% in respect of rent arrears arising as a result of a tenancy agreement between the parties commencing on 28th August 2019 at a monthly rent of £950. The tenancy ended on 9th October 2020.
2. The Applicant’s representative lodged a copy of the tenancy agreement, tenancy deposit information and correspondence, and a rent statement.
3. Intimation of the application and Case Management Discussion was made upon the Respondents by Sheriff Officers on 4th March 2022.

4. By email dated 13th April 2022, the Applicant's representative informed the Tribunal of a typographical error in the sum sought, providing an amended application for the sum of £6059.85.

Case Management Discussion

5. A Case Management Discussion ("CMD") took place by telephone conference on 19th April 2022. The Applicant was not in attendance and was represented by Ms Tighe, Trainee Solicitor. The Respondents were not in attendance.
6. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondents 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 Respondents.
7. Ms Tighe moved the Tribunal to grant an order for payment in the sum of £6059.85 with interest thereon at 8%.
8. Responding to questions from the Tribunal regarding the rate of interest, Ms Tighe said it was her understanding that the tenancy agreement did not allow for a contractual rate of interest to be applied to the debt, so the judicial rate of 8% was sought.

Findings in Fact and Law

9.
 - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 28th August 2019 at a monthly rent of £950.
 - ii. The tenancy ended on 9th October 2020.
 - iii. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - iv. The Applicant is entitled to recover rent lawfully due.
 - v. Interest should be applied at the use value rate of 3% per annum.

Reasons for Decision

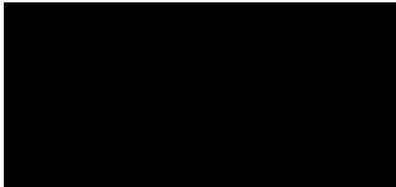
10. The Respondents have failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties. Interest was applied to the sum at the use value rate of 3% per annum.

Decision

11. An order for payment is granted in favour of the Applicants in the sum of £6059.85 with interest thereon at the rate of 3% per annum, 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/Chair

19th April 2022
Date