



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/3170

Re: Property at 2 Whinny Burn Court, Motherwell, ML1 2LW (“the Property”)

Parties:

Mr David Harbury, 85 Ardrossan Road, Seamill, West Kilbride, North Ayrshire, KA23 9NF (“the Applicant”)

Miss Melanie Shaw, 2 Whinny Burn Court, Motherwell, ML1 2LW (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Eleven thousand one hundred and sixty pounds (£11,160) Sterling with interest at the rate of three per cent per annum from the date of decision until payment.

Background

- 1 By application to the Tribunal the Applicant sought an order for payment against the Respondent in respect of outstanding rent arrears in the sum of £10,230 together with any additional sums due up to the date of the order and interest. In support of the application the Applicant provided the following documentation:-
 - (i) Private Residential Tenancy Agreement between the parties dated 18 November 2019; and
 - (ii) Rent Statement.
- 2 By Notice of Acceptance of Application dated 5 January 2022 the Legal Member with delegated powers of the Chamber President intimated that there were no

grounds on which to reject the application. A Case Management Discussion was therefore assigned for the 15 March 2022 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

Case Management Discussions

- 3 The Case Management Discussion took place by teleconference on 15 March 2022. The Applicant was represented by Ms Kirsty Morrison of TC Young LLP. The Applicant himself was not present, nor was the Respondent. The Tribunal noted that she had been served with notification of the Case Management Discussion by Sheriff Officers and therefore determined to proceed in her absence.
- 4 Ms Morrison explained that arrears had now increased to the sum of £11,160 and she was seeking a payment order in that amount. She confirmed that no rent had been paid since 2 March 2020 and arrears had been increasing ever since that date. The rent payable was £465 per calendar month. In response to questions from the Tribunal she confirmed that the deposit remained lodged in a tenancy deposit scheme and that she sought an award of interest on the debt owed at the rate of 2-3% per annum. She noted there was not contractual right to seek interest, this was merely at the Tribunal's discretion.

Findings in Fact and Law

- 5 The parties entered into a Private Residential Tenancy Agreement dated 18 November 2019.
- 6 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £465 per calendar month.
- 7 As at the date of the Case Management Discussion arrears in the sum of £11,160 were outstanding.
- 8 Despite repeated requests the Respondent has refused or delayed to make payment of the rent due.
- 9 The Respondent is therefore due to pay the sum of £11,160 to the Applicant.

Reasons for Decision

- 10 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would

not be prejudicial to the interests of the parties. The Respondent had been given the opportunity to take part in the proceedings through service of the application paperwork but had chosen not to do so. On that basis the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved.

- 11 The Tribunal accepted that there were rent arrears outstanding in the sum of £11,160, noting the Respondent's obligation to pay rent at the rate of £465 per month. It was apparent from the rent statement provided that arrears had accrued rapidly since March 2020 due to a lack of payments from the Respondent and had been steadily increasing for approximately two years by the date of the Case Management Discussion. The Respondent had not chosen to enter the proceedings and there was nothing before the Tribunal to contradict the position put forward by the Applicant.
- 12 The Tribunal therefore made an order for payment against the Respondent in the sum of £11,160. The Tribunal was also content to exercise its discretion to make an order for interest at the rate of three per cent per annum from the date of decision until payment as sought by the Applicant.
- 13 The decision of the Tribunal was unanimous.

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: Ruth O'Hare

Date: 15th March 2022