



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) In respect of an application under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and Rule 111 of the Rules

Chamber Ref: FTS/HPC/CV/22/1300

Re: Property at 7, 3/1 Banner Drive, Glasgow, G13 2HW (“the Property”)

Parties:

Mr Robert Pascal, 64 Kidd Place, Charlton, London, SE7 8HF (“the Applicant”) per his agents, Messrs. TC Young Solicitors 7 West George Street Glasgow G2 1BA (“the Applicant’s Agents”)

Mr Samuel McGillivray, 7, 3/1 Banner Drive, Glasgow, G13 2HW (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Jane Heppenstall (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 in the sum of FOUR THOUSAND FIVE HUNDRED POUNDS (£4,500.00) Sterling together with interest at the rate of Three per centum (3%) per annum from the date hereof.

Background

1. By application received on 5 May 2022 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for payment of rent arrears of £4,500.00 together with interest arising from a tenancy between the Parties. The Application comprised a statement of rent due and owing in the sum of £8,500.00 to May 2022, copy private residential tenancy agreement between the Parties, copy statutory notice increasing the monthly rent from £400.00 to £500.00 and copy tribunal order in the sum of £4,000.00 dated 20 July 2021. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 2 August 2022 at 10.00 by telephone conference. The CMD was intimated to the Parties, and in particular, was intimated to the Respondent at the Property by Sheriff Officer on 17 June 2022.

CMD

2. The CMD took place on 2 August 2022 at 10.00 by telephone conference. The Applicant did not take part and was represented by Ms. Kirstie Donnelly of the Applicant's Agents. The Respondent did not take part and was not represented. He did not submit any written representations.
3. Ms. Donnelly confirmed the sum sought and advised that, although further rent had fallen due and was unpaid totalling £10,500.00, the Applicant did not wish to amend the Application for the greater sum. The Applicant sought interest as outlined in the Application and Ms. Donnelly suggested that 3% per annum is a reasonable amount.
4. Ms. Donnelly confirmed that no payment had been made by the Respondent in respect of the payment order garneted in July 2021 and explained that the Applicant had not acted promptly in respect rent collection as he had been distracted by his mother's illness. No contact had been made by the Respondent in respect of the sums due by him and an attempt by a friend of the Applicant to contact the Respondent direct was met with abuse and aggression. This reaction on the part of the Respondent dissuaded the Applicant from further contact.

Findings in Fact

5. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties at an initial monthly rent of £400.00 which was increased to £500.00:
 - ii) Rent amounting to £8,500 to the end of May 2022 is outstanding and due and owing by the Respondent to the Applicant;
 - iii) The Applicant holds an Order for payment of £4,000.00 in respect of the rent due by the Respondent

Decision

6. Having made those findings, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussionincluding making a decision" and so proceeded to make an order for payment in the sum of £4,500. With regard to interest on the sum due, the Tribunal had regard to the fact that judicial interest is 8% per annum and to the fact that the intention to request interest was intimated to the Respondent, and, took the view that 3% per annum is a reasonable amount.
7. This Decision is 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.

Karen Moore

Legal Member/Chair

2 August 2022

Date