



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 (“the 2014 Act”) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/CV/22/3317

Re: Property at Basement Flat, 1 Lynedoch Place, Glasgow, G3 6AB (“the Property”)

Parties:

Mr Neil McKinnon, Glendale, Bankend Road, Bridge of Weir, PA11 3EU (“the Applicant”)

Gilson Gray LLP, 29 Rutland Square, Edinburgh, EH1 2BW (“The Applicant’s Representative”)

Mr Sandy Moreland, 1 Lynedoch Place, Basement Flat, Glasgow, G3 6AB (“the Respondent”)

Tribunal Members:

**Ms. Susanne L M Tanner Q.C. (Legal Member)
Ms. Elizabeth Currie (Ordinary Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that the Respondents should pay to the Applicant the sum of TWENTY THREE THOUSAND TWO HUNDRED POUNDS (£23,200.00) STERLING; and made an Order for Payment in respect of the said sum; together with interest at the rate of three percent (3%) per year, from the date of this decision.

Procedural background

1. The Applicant made an Application to the tribunal on 8 September 2022 in terms of Section 16 of the 2014 Act and Rule 111 of the 2017 Rules, seeking an order for payment against the Respondent in the sum of £23,300 in respect of rent arrears, plus interest.
2. The supporting documentation submitted by the Applicant comprised:
 - 2.1. Private Residential Tenancy agreement;
 - 2.2. A rent ledger showing payments and arrears; and
 - 2.3. Authority for the Applicant to act as an agent.
3. The tribunal's administration obtained a copy of the Title Sheet for the Property which showed the registered proprietor from 11 August 2021 as SMS Investments (Scotland) Limited, a company incorporated under the Companies Acts (Company number SC597109) and having its registered office at Titanium, 1 King's Inch Place, Renfrew, PA4 8WF.
4. The tribunal requested further information from the Applicant's Representative in relation to title and interest to make the application. The Applicant's Representative responded stating that the Applicant is a director of the limited company which is registered proprietor. A consent letter was produced from co-director of the limited company which is the registered proprietor of the Property, consenting to the Property being let in the sole name of the Applicant and of the Application being raised in his sole name as proprietor.
5. On 13 September 2022, the Application was accepted for determination by the tribunal. A Case Management Discussion (CMD) was fixed for 14 November 2022 at 1000h. The CMD was joined with the CMD in the related eviction application EV/22/1505.
6. The tribunal sent letters dated 10 October 2022 to both parties with notification of the date, time and joining instructions for the CMD. The Respondent was invited to submit written representations in response to the Application by 31 October 2022. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. The parties were also advised that if they do not attend the CMD this would not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.

7. Service on the Respondent of the application paperwork and CMD notification by Sheriff Officers was successful.
8. No written representations were submitted by the Respondent in advance of the CMD.
9. The Respondent did not make any contact with the tribunal after service of the notification.
10. On 8 November 2022, the Applicant's Representative sent the tribunal and the Respondent an updated rent statement, including payments due and made up to an including 1 November 2022.

CMD: 14 November 2022, 1000h, teleconference

11. The Applicant was represented by Mr Gray, solicitor from Gilson Gray LLP, the Applicant's Representative.
12. The Respondent did not attend. The tribunal was satisfied that the requirements of Rule 24(1) regarding the giving of notice of a hearing have been duly complied with and proceeded with the application upon the representations of the party present, in term of Rule 29.

Applicant's submissions

13. The Applicant's Representative confirmed that although the arrears have increased, he is at present claiming the sum of £23,200.00 which was the rent arrears to 30 September 2022, as shown on the schedule submitted. He reserved the Applicant's right to make an application seeking further arrears at a later date, once the tenancy has ended.
14. The Applicant stated that the Respondent has not made any payments of rent since the application was made.
15. He sought interest at the rate of three to four per cent per year and submitted that that was reasonable having regard to the judicial rate of eight per cent and current interest rates. He stated that he was in the tribunal's hands in relation to its discretion in relation to interest.

16. Findings-in-Fact

- 16.1. The Applicant is one of the directors of the registered proprietor limited company of the Property and has the consent of the other director to let the Property and to make this application to the tribunal.
- 16.2. There is a private residential tenancy agreement between the Applicant and the Respondent for the Property.
- 16.3. The start date of the tenancy was 1 June 2019.
- 16.4. Rent is payable at the rate of £750.00 per calendar month on the 1st day of each month.
- 16.5. The Application to the tribunal was made on 8 September 2022.
- 16.6. There have been rent arrears since in or around 1 June 2019.
- 16.7. As at 30 September 2022, the Respondent was in arrears of rent of £23,200.00.
- 16.8. As at 14 November 2022, the Respondent was in arrears of rent of £24,300.
- 16.9. The Respondent has offered to make payments towards clearing the arrears but had not done so.
- 16.10. The Respondent continues to reside in the Property and lives alone.
- 16.11. An order for eviction was made in related proceedings on 14 November 2022.

Discussion

17. As the tribunal was satisfied that the Respondent owes £23,200.00 to the Applicant by way of rent arrears to 30 September 2022, the tribunal made an Order for Payment in respect of the rent arrears in the sum of £23,200.00.
18. The tribunal awards interest on that sum from the date of this decision, 14 November 2022, at the rate of three per cent (3%) per year.

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.

S. Tanner

14 November 2022

Ms. Susanne L M Tanner K.C.
Legal Member/Chair