



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

Chamber Ref: FTS/HPC/CV/22/3479

Re: Property at Flat 8, 2 Moreland View, Edinburgh, EH12 8NS (“the Property”)

Parties:

Places For People Scotland Limited, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mrs Cheryl Gardner, Flat 8, 2 Moreland View, Edinburgh, EH12 8NS (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is liable to make payment to the Applicant in the sum of FOURTEEN THOUSAND SIX HUNDRED AND FIFTY ONE POUNDS AND FORTY SEVEN PENCE (£14,651.47) STERLING.

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference call on 9 January 2023, together with the related application EV/22/3478. The Applicant was represented by Miss Wilson, solicitor. The Respondent was neither present nor represented.
2. In this Application, the Applicant seeks payment of a sum said to be due by the Respondent as rent arrears under a short assured tenancy agreement. The sum claimed was £12,598.78 together with interest thereon at a rate of 4% per annum from the date of any order to follow. By email dated 5 December 2022 and copied to the Respondent, the Applicant sought to increase the sum claimed to £14,651.47 to reflect additional arrears accrued

since the Application was raised. Miss Wilson invited the Tribunal to amend the sum claimed from £12,598.78 to £14,651.47. The Tribunal allowed that amendment.

3. In terms of rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), the Tribunal may do anything at a CMD that it may do at a Hearing including make a decision. In terms of rule 2, the Tribunal must have regard to the overriding objective to deal with proceedings justly when making a decision. The overriding objective includes the need to avoid unnecessary delay in proceedings.
4. The Respondent has been afforded an opportunity to attend the CMD and dispute the matters referred to in the Application and the Applicant’s Representative’s email of 5 December 2022. She has chosen not to avail herself of that opportunity. The Tribunal is therefore satisfied that she does not dispute the Application; in particular that she is liable to the Applicant for payment of rent arrears in the sum of £14,651.47.
5. The Applicant seeks interest on the unpaid sum from the date of the Tribunal’s order until payment. There is no contractual provision for payment of interest. The Applicant’s position is simply that the Tribunal is empowered to award interest at a rate it considers appropriate, and 4% is a reasonable rate.
6. The Tribunal is empowered by rule 41A of the Rules to include interest when making an order for payment at a rate which it orders. In this case, the Tribunal noted from the rent schedule that the Applicant had persistently been in arrears of rent since the beginning of the tenancy in 2014, and continuously in rent arrears since November 2018. In particular, the Respondent had not been in arrears of less than £2,500 since March 2019. The Applicant has not had the benefit of those sums during that period, and will not have the benefit of the outstanding sum of £14,651.47 until it is paid. It is reasonable to make an award of interest to reflect the loss of investment opportunity that necessarily results from non-payment of the rent in this case. The rate of 4% is only slightly above the Bank of England base rate of 3.5%. In all of the circumstances, the Tribunal is satisfied that the rate of 4% is a reasonable rate of interest to apply in this case.
7. Accordingly, the Tribunal is satisfied that the Respondent is liable to make payment to the Applicant in the sum of £14,651.47, and that interest should accrue thereon at a rate of 4% from 9 January 2023 until payment. The Tribunal granted a payment order in those terms.

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.

Andrew Upton

9 January 2023

Legal Member/Chair

Date