



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/22/3760

Re: Property at 2 Castle Vale, Stirling, FK9 5NX (“the Property”)

Parties:

Miss Arlene Love, 39 Craiglea, Stirling, FK9 5EE (“the Applicant”)

Mr Calum McKay, Miss Pauline Murphy, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Member:

Karen Kirk (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondents for £6903.42 plus interest at the rate of 4% per annum from the date of the hearing till payment.

1. Introduction

This Case Management Discussion concerned an Application dated 13th October 2022 for civil proceedings in respect of a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The discussion took place by teleconference.

2. Attendance and Representation

Alexandra Wooley, Bannatyne Kirkwood France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG, attended for the Applicants.

The Respondents were not present. They had been served by Sheriff Officer on the 8th December 2022. No written representations had been received and there was no appearance at this hearing.

3. Preliminary Matters.

The Applicant lodged on 12th January 2023 an application to amend the sum sought from £4630 to £6903.42. A Rent statement dated 18th December 2022 was lodged with this application for amendment. This was intimated on the Respondents. The Tribunal allowed the sum sought to be amended.

There were no other preliminary matters.

4. Case Management Discussion.

The Applicant's representatives set out that the Applicant sought a payment order for the rent arrears of £6903.42 together with interest at the discretion of the Tribunal. An up to date rent statement had been lodged with detailed that the amount sought. The Applicant's representative set out that the Respondents vacated the property on the 5th January 2023 having found alternative accommodation. The rent statement was updated to show the final amount due. The Applicant's representative sought interest from the date of the hearing until payment at the rate of 6.5% per annum on the basis she sought 3% above the current base rate. She submitted the last payment towards the rent was in June 2022. The Tribunal considered the overriding objective and all the circumstances in this individual case and considered it was appropriate to award interest at 4% to reflect current circumstance and fairness to both parties.

The Applicant's representative sought a payment order of £6903.42 in total.

5. Findings in Fact

1. The Tribunal was satisfied that a decision could be made in the absence of the Respondents at the Case Management Discussion and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondents had been served personally by Sheriff Officer and had not provided any written representations or appeared at the Case Management Discussion.
2. The Applicants and the Respondent entered into a Private Residential tenancy on 27th March 2021. A copy of the tenancy was lodged.
3. At per the said tenancy the rent per calendar month due was £900.

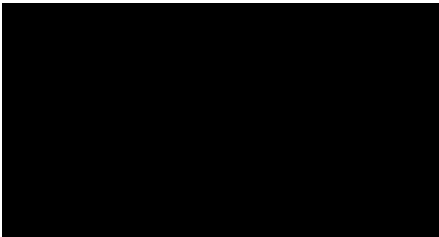
4. A rent statement dated 18th September 2022 and then an updated rent statement lodged dated 18th December 2022 I showed rent arrears due by the Respondents to the Applicant of £6903.42. The Tribunal found in fact based on the evidence before it that the Respondents were liable for rent arrears due by them to the amount of £6903.42.
5. In interest in the discretion of the Tribunal and sought in the application was appropriate at 4% per anum from the date of the Hearing.
6. The Tribunal granted a Payment Order for £6903.42 plus interest at the rate of 4% per anum from the date of the hearing till payment.

6. Reasons for Decision

The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property. The Tribunal was satisfied that there was a Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination in the absence of the Respondents. The Tribunal was also satisfied that the respondents were in arrears of rent lawfully due and a Rent Statement for the property as at 18th December 2022 was lodged. Rent owed from same amounted to £6903.42. Accordingly in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £6903.42 against the Respondents plus interest at the rate of 4% per anum from the date of the hearing till 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.



26th January 2023