

Housing and Property Chamber
First-tier Tribunal for Scotland



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/22/1476

Re: Property at 49 Warren Road, Hamilton, ML3 7QJ (“the Property”)

Parties:

Scottish Midland Co-operative Society, Hillwood House, 2 Harvest Drive, Newbridge, EH28 8QJ (“the Applicant”)

Mr Darren Lindsay, 49 Warren Road, Hamilton, ML3 7QJ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment from the Respondent for £4325 (FOUR THOUSAND THREE HUNDRED AND TWENTY FIVE POUNDS) plus interest at 3% per annum.

Background

1. An application was received by the Housing and Property Chamber dated 17th March 2022. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments and legal fees the amount sought being £3450 with interest.
2. On 10th May 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 16th June 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 31st May 2022.

3. On 8th June 2022, the Applicant emailed the Housing and Property Chamber requesting the amount sought be increased to £4325.
4. On 10th May 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 10th May 2022.
5. The case was conjoined with case FTS/HPC/EV/22/0796

The Case Management Discussion

6. A CMD was held on 16th June 2022 at 2pm by teleconferencing. The Applicant was represented by Mr David Grey, paralegal, Gilson Grey solicitors. Miss Mandy Forrest, Residential Property Manager for the Applicant also was present. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the hearing.
7. Mr Grey told the Tribunal that there was nothing new since the email of 8th June 2022 increasing the amount sought. The last payment was the month after the Respondent moved into the Property. An order for payment in relation to rent arrears was lodged in process. This was for the amount outstanding up until October 2021. The Respondent has made no attempts to make payments to the arrears, though the payment order has not been served on him yet. Mr Gray also pointed out that in terms of clause 37 of the PRT legal expenses can be claimed. Vouching for legal fees of £250 plus VAT has been lodged. This totals £300. Mr Grey made a further motion for interest as craved in the application. He suggested that this could be 3% or 4% but left this to the Tribunal's discretion. Calculation of the outstanding rent is from 29th October 2021 to 28th May 2022. This includes the period 28th May 2022 – 27th June 2022. While this is in advance of the hearing the amount remains due as the Respondent requires to give notice before he leaves and will be due rent until the end of any such notice. An order for payment was granted on 19th November 2021 for £3609 for rent arrears up until 28th October 2021.
8. Miss Forrest told the Tribunal that the Applicant has tried to make contact on numerous occasions by letter, email an text. There has been no response from the Respondent. The Police went to the Property in December 2021 and he was emailed about this. He emailed to state that the matter was blown out of proportion. He made no reference to making payments to his rent. There are no outstanding Universal Credit issues as far as is known. There have been no offers of payment.
9. The Tribunal was satisfied that ground 12 has been met. It was also satisfied that there are no issues of reasonableness. The Tribunal granted the Order. As the base rate interest is 1.25% the Tribunal considered 3% an appropriate amount.

Findings and reason for decision

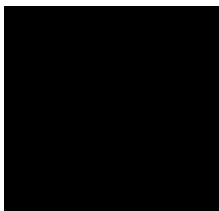
10. A Private Rented Tenancy Agreement commenced 27th March 2021.
11. The Respondent persistently failed to pay his rent charge of £575 per month. The rent payments are due to be paid on 27th day of each month.
12. There are no outstanding Universal Credit Housing Element issues.
13. The arrears sought totalled £4325. The Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the application. There have been no offers of payment.

Decision

14. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £4325 plus interest at 3% per annum.

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/Chair

16th June 2022

Date