



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/22/3780

Re: Property at 32 Yeamans Lane, Dundee, DD2 3EJ (“the Property”)

Parties:

Mrs Valerie Murphy, 94 Balgillo Road, Broughty Ferry, Dundee, DD5 3LX (“the Applicant”)

Mr Gordon Drummond, 91B Balgarthno Road, Dundee, DD2 4QY (“the Respondent”)

Tribunal Members:

Jan Todd (Legal 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 of £2,316.30 plus interest at the rate of 5% should be made in favour of the Applicant.

1. This was the second case management discussion to consider the application made by the Applicant dated 14th October 2022 for an order for payment of rent arrears in terms of Rule 111 of the Tribunal Rules. The CMD took place by teleconference.
2. The Applicant is the owner of the Property and Landlord in a Tenancy with the Respondent who is the tenant, which commenced on 31st May 2019.
3. The Applicant had lodged and the Tribunal had sight of and considered the following documents:-
 - a. Application for payment dated 14th October 2022
 - b. Copy Tenancy Agreement between the Applicant and the Respondent in respect of the Property dated 31st May 2019
 - c. Rent statement dated from 30th September 2021 to 11th September 2022 showing a sum due of £2090
 - d. Copy letters re rent arrears.

4. The Applicant subsequently lodged a further rent statement dated December 2022 on 2nd February 2023 showing a sum of £2,516.30 due. The Applicant also advised this had been sent to the Respondent. The Respondent has made no written submissions with regard to the application.
5. At the first CMD on 14th February Mr Jarvie solicitor appeared for the applicant and explained that his client was seeking an order for payment of the sum of £2516.30 as pre the revised rent statement with interest at the rate of 3% above the base rate which is currently he advised 4%. He advised this was in respect continued arrears built up by the Respondent as tenant in the Property let from the landlord over a number of years.
6. In response to questions Mr Jarvie advised that the tenant had left on 3rd November 2022 and this is when the rent statement is made up to.
7. As in terms of rule 14A of the Tribunal rules any amendment including to the sum sought needs to be made by requesting the amendment and intimating it to the other party at least 14 days before any CMD or hearing and that the required 14 days' notice had not been given the case was continued to allow the application to be amended and to clarify what happened to the deposit of £200 and so confirm what the final sum sought is to be.
8. The Tribunal issued a direction regarding the deposit and final rent arrears and Mr Jarvie responded to that by e-mail on
9. At 10am on 4th May the Applicant's representative, Mr Jarvie was in attendance on the teleconference call. The Respondent was not in attendance intimation of the original CMD and a copy of the application and papers had been served on him by sheriff officers on 15th December 2022, and intimation of this CMD had been sent on 30th March 2023. The Tribunal waited until 10.05 to see if he would appear but he did not and so the Tribunal considered appropriate to continue in his absence.
10. Mr Jarvie confirmed that the final sum sought by the applicant in respect of rent arrears accrued as set out in the rent statement was now £2,316.30 as the deposit of £200 had now been applied towards the rent arrears. He explained that initially the Applicant had intended the deposit to be applied towards works needing done on the house after the tenancy ended but had in fact sold the house as it was without doing further works to it and so has now applied the deposit repayment to the arrears due.
11. Mr Jarvie confirmed that there had been no further contact from the tenant and no further payments have been made. He advised the Applicant was seeking interest at the rate of 7% to compensate her for the period of time rent has been in arrears and to also encourage the Respondent to pay the debt. He advised the final sum sought is now £2,316.30.

Findings in Fact

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 31st May 2019, where the Applicant is the landlord and the Respondent is the tenant.
2. The Rent due in terms of the lease is £400 per calendar month payable in advance by the Respondent to the Applicant.
3. The tenant had left the property by 3rd November 2022

4. The rent outstanding and due by the Respondent at 3rd November 2022 was £2516.30
5. The Deposit of £200 was reclaimed by the Applicant and put towards the arrears of rent.
6. Final sum due in respect of rent arrears is £2,316.30

- **Reasons for Decision**

7. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £400 per month in rent.
8. The Respondent has failed to pay the full rent due. The Respondent has left the property on or around 3rd November 2022.
9. The Respondent was served notice of this application by sheriff officer on and has not made any written representations or attended this CMD or the previous one. The Application sought a sum of £2,090 but prior to the first CMD on 14th February the Applicant's representative had lodged a revised rent statement stating the final sum due after the lease had ended was £2516.30 and seeking to increase the sum sought in the application. A copy of this request was also sent to the Respondent. The Tribunal has accepted that the request to amend the sum sought was reasonable and due notice has been given. At today's CMD a further rent statement had been lodged reducing the rent arrears after applying the deposit of £200 so making the final sum sought £2,316.30.
10. The Tribunal accepts the written evidence and verbal statements made by the Applicant's representative who the Tribunal found clear and credible in his evidence that the rent outstanding today is £2,316.30.
11. The Applicant is seeking interest on the sum claimed and has asked for 7% being 3% above the current base rate of 4%. The Tribunal considers that given interest rates have only fairly recently been raised an award of 5% is reasonable. In the absence of any representations from the Respondent, and there being no application for time to pay, the Tribunal finds it fair and appropriate to make an order for payment for the sum of £2,316.30 plus interest at 5%.

- **Decision**

An order for payment of the sum of £2,316.30 plus interest at the rate of 5% is granted.

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

Date 4th May 2023