



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/22/2348

Re: Property at 51 Bute Crescent, Shotts, ML7 4HF (“the Property”)

Parties:

Mr Jason Elliott, 7 Kippford Place, Chapelhall, Airdrie, ML6 8LL (“the Applicant”)

Mr John Carlyle, Unknown, Unknown (“the Respondent”)

Tribunal Members:

Nicola Irvine (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 Respondent in favour of the Applicant in the sum of £1,405.05, with interest at the rate of 3% per annum from today’s date until payment.

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the Respondent.
2. By decision dated 10 August 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 11 August 2022. The Tribunal wrote to the Applicant’s representative by letter of 7 September 2022 and provided details of the date, time and conference call details of today’s case management discussion. The Tribunal served the

application on the Respondent by advertisement on the Housing and Property Chamber website on 7 September 2022.

The case management discussion

4. The case management discussion took place by conference call. The Applicant was represented by Mr McKeown. The Respondent did not join the conference call and the discussion proceeded in his absence. The Applicant's representative explained that the tenancy was terminated on 6 May 2022. Prior to termination, the Applicant's representative wrote to the Respondent regarding rent arrears and requested payment. The Respondent failed to make any proposals for payment of the rent arrears and has not made contact with the Applicant or his representative since the tenancy terminated. The arrears outstanding are reflected in the rent statement produced. The Applicant's representative moved for a payment order to be granted for £1,405.05, together with interest. Although there was no contractual term providing for interest, the Applicant's representative relied upon rule 41A which gives the Tribunal discretion to award interest.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 4 March 2020.
6. The Respondent was obliged to pay rent at the rate of £525 per month, in advance.
7. The rent arrears due by the Respondent amounted to £1,405.05.

Reason for Decision

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondent did not participate in the discussion and did not lodge any written submissions. The rent statement lodged demonstrated that there are arrears of rent due. There was nothing to indicate that the Respondent disputed the level of rent arrears shown on the rent statement. The Applicant's representative wrote to the Respondent before the tenancy ended, requesting payment of rent arrears. The Tribunal was satisfied that the sum of £1,405.05 is due to the Applicant in respect of rent arrears.
9. The Tribunal observed that the debt due by the Respondent has been outstanding for several months. It was noted that the tenancy agreement made no provision for interest on late payment of rent. The Tribunal exercised its discretion and awarded interest on the sum due at the rate of 3% per annum from today's date until 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.

N Irvine

Legal Member/Chair

Date 25 October 2022