



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/22/3638

Re: Property at Flat 1/1 2 Newton Place, Glasgow, G3 7PR (“the Property”)

Parties:

KPM Estates Limited, 23 Park Circus, Glasgow, G3 6AP (“the Applicant”)

Mr Iain MacLeod, Flat 1/1 2 Newton Place, Glasgow, G3 7PR (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision

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 £16,070, with interest at the rate of 2% per annum from today’s date until payment.

Background

1. The Applicant submitted an application under Rule 70 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. A case management discussion (“CMD”) took place on 2 February 2023 and reference is made to the Note and Notice of Direction issued following that CMD.
3. On 9 February 2023, the Applicant’s representative submitted an updated rent statement, in accordance with the Notice of Direction issued on 2 February 2023.

The case management discussion

4. The CMD took place by conference call. The Applicant was represented by Mr Jarvie and the Respondent participated personally. Ms Low of KPM Estates Limited joined the call as an observer. The Applicant's representative moved to amend the sum sued for to £16,070 and sought a payment order in that sum with interest at the rate of 3% above the Bank of England base rate. 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. The Respondent accepted that the sum of £16,070 is due by him in respect of rent arrears. He was not in a position to offer payment because he relies solely on state benefits and does not have the financial wherewithal to pay the outstanding sum. He opposed the motion for interest. He explained that he has lived in the property for 17 years and during that time, have paid rent of £167,500. During his occupation, the Applicant has incurred very little expenditure in relation to repairs within the property.

Findings in Fact

5. The parties entered into an assured tenancy which commenced 1 April 2005.
6. The Respondent was obliged to pay rent at the rate of £900 per month, in advance.
7. The rent arrears due by the Respondent as at 31 January 2023 amounted to £16,070.

Reasons for Decision

8. The Tribunal proceeded on the basis of the documents lodged in support of the application and the submissions made at the CMD. The Respondent accepted that the updated rent statement was accurate and that the sum sought was due.
9. The Tribunal observed that the debt due by the Respondent is substantial and has been outstanding for several months. It was noted that the tenancy agreement made no provision for interest on late payment of rent. However, the Respondent has no proposal for payment of the debt, given his financial position. The Tribunal exercised its discretion and awarded interest on the sum due at the rate of 2% 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.

Legal Member/Chair

23 March 2023

Date