



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) 2016 Act

Chamber Ref: FTS/HPC/CV/23/2280

Re: Property at Room 3, 3a Railway Court, Newtown St Boswells, TD6 0PW (“the Property”)

Parties:

Raina Haig, 2 Petros Gardens, London, NW3 6EL (“the Applicant”)

Graeme Reid, 19 Cotgreen Road, Tweedbank, TD1 3SG (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that payment in the sum of £2,029.35 be granted against the Respondent.

- 1) This was an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears plus further sums recoverable under the Tenancy Agreement. The tenancy in question was a Private Residential Tenancy (“PRT”) by the Applicant to the Respondent commencing on 14 October 2020.
- 2) The application was dated 6 July 2023 and lodged with the Tribunal on 10 July 2023. The application sought payment of arrears of £1,669.35 plus “late payment fees” of £360. The application specified four missed rental payments of £375/month from 14 January 2022 to 14 April 2022 plus pro-rated unpaid rent from 14 May 2022 of £169.35. The lease for the Tenancy accompanied the application and it detailed a rental payment of £375 payable in advance on the 14th of each month. It included correspondence between the parties regarding

the Tenancy terminating on 27 May 2022 and the final rent payment due on 14 May 2022 being £169.35.

The Hearing

- 3) The matter called for a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 10 November 2023 at 14:00. I was addressed by the Applicant and her agent, Neil Harris, of Smart PA. There was no appearance from the Respondent.
- 4) I was informed by the clerk that no contact had been received from the Respondent (or on his behalf) with the Tribunal. The Applicant and her agent stated that there had been no contact from the Respondent regarding the application. I considered that the Respondent had received clear intimation of the CMD from Sheriff Officers. Having not commenced the CMD until around 14:05, I was satisfied to consider the application in the Respondent’s absence. In any case, no attempt was made by the Respondent to dial in late to the CMD.
- 5) At the CMD, the Applicant and her agent confirmed that the application for an order for payment was still sought at the amount of £2,069.35 and that no further payments had been received against this sum since the raising of the application.
- 6) In regard to the £360 of “late payment fees” the application papers described these as four payments of £90 incurred through the Applicant’s former letting agent in regard to work pursuing payment of arrears that the letting agent had undertaken over a number of months. During the CMD, the Applicant said that she recalled these sums being charged to her by the letting agent, though they may not have been charged over consecutive months. Vouching for the invoicing of these costs (or deduction from rent receipts of these amounts) was not provided with the application papers.
- 7) No motion was made for expenses. The Applicant sought interest from the date of the decision at a judicial rate of 8% per annum.

Findings in Fact

- 8) On or about 2 and 12 October 2020 the Applicant let the Property as a Private Residential Tenancy to the Respondent under a lease with a commencement date of 14 October 2022 (“the Tenancy”).
- 9) In terms of clause 7 of the Tenancy Agreement, the Respondent required to pay rent of £375 a month in advance on the 14th day of each month.
- 10) In terms of clause 33(a) of the Tenancy Agreement, the Applicant was entitled to pursue the Respondent for any reasonable costs incurred as a result of the Tenant’s failure to pay rent on time including, but not limited to, any reasonable costs incurred in pursuing the Respondent for payment of unpaid rent.

- 11) During the course of the Tenancy, the Respondent fell into arrears of rent and the Applicant's then letting agent undertook steps, over a course of months, to pursue unpaid rent arrears from the Respondent.
- 12) The Applicant incurred £360 of costs to her letting agent in regard to steps undertaken by her letting agent in pursuing the Respondent for payment of unpaid rent.
- 13) The Tenancy terminated on, and the Respondent vacated the Property by, 27 May 2022.
- 14) As at 27 May 2022, the Respondent was in arrears of rent of £1,669.35 being rent incurred from 14 January 2022 to 27 May 2022. The sum of £1,669.35 was comprised of £375 for the months commencing 14 January, 14 February, 14 March, and 14 April and a pro-rated sum of unpaid rent from 14 May 2022 to 27 May 2022 of £169.35.
- 15) On 6 July 2023, the Applicant raised proceedings against the Respondent for an order for payment of the rent arrears of £1,669.35 said to be due to 27 May 2022 (and still unpaid as at that date) and the £360 of debt recovery costs.
- 16) On 20 October 2023, the Tribunal intimated to the Respondent the date and time of the CMD of 10 November 2023 by Sheriff Officer.
- 17) The Respondent provided no evidence of payment of any part of the said unpaid rent and other charges of £2,029.35.

Reasons for Decision

- 18) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. I was satisfied, on the basis of the application and supporting papers, that rent arrears of £1,669.35 were due for the period from 14 January 2022 to termination of the lease on 27 May 2022 and remained outstanding as of today.
- 19) In regard to the debt recovery costs, in the absence of any dispute by the Respondent, I was satisfied by the Applicant's submissions of having incurred these costs and regarded the £360 as a reasonable cost incurred for debt recovery work by the letting agent over a course of months. I held it recoverable under clause 33(a) of the Tenancy Agreement.
- 20) No defence was made by the Respondent to any part of the application. The application, supplemented by the submissions at the CMD, clearly set out the sums sought and I was satisfied that the necessary level of evidence for these civil proceedings had been provided.
- 21) The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. I was thus satisfied to make a decision at the CMD to award the sum of £2,029.35 against the Respondent. In regard to

interest, I was satisfied to grant interest at the judicial rate of 8% from today's date until payment.

Decision

- 22) In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of £2,069.35 with interest at 8% from 10 November 2023.

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.

J Conn

10 November 2023

Legal Member/Chair

Date