



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/23/1662

Re: Property at 3F3, 13 Smithfield Street, Gorgie, Edinburgh, EH11 2PG (“the Property”)

Parties:

Mr Alan James Irvine, Flat B, 30 Galveston Road, London, SW15 2SA (“the Applicant”)

Louise Grant, Brian Shearer, 3F3, 13 Smithfield Street, Gorgie, Edinburgh, EH11 2PG (“the Respondents”)

Tribunal Members:

Ms H Forbes (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £3270.25 should be made in favour of the Applicant, with interest on the sum of £2601.95 at the rate of 8% per annum.

Background

1. This is a Rule 111 application made in the period between 22nd May and 7th August 2023. The Applicant was seeking an order for payment for outstanding rent arrears in the sum of £3041.27 with interest thereon at the rate of 8% per annum and the reasonable costs incurred as a result of the Respondent failing to pay the rent. The Applicant lodged a copy of a private residential tenancy agreement between the parties that commenced on 19th November 2020, title information, rent increase notice, and a rent statement.
2. The application and notification of a forthcoming Case Management Discussion was served upon the Respondents by Sheriff Officer on 10th October 2023.
3. By email dated 13th October 2023, the Applicant made an application to amend the sum sought by lodging a rent statement showing rent arrears in

the sum of £2601.95, and vouching for reasonable costs incurred in the sum of £668.30.

The Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 14th November 2023. Neither party was in attendance. The Applicant was represented by Mr David Gray, Solicitor.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondents.
6. Mr Gray said the Respondents had made some payments since the application was lodged, hence the decrease in the outstanding rent arrears. Mr Gray asked the Tribunal to grant an order for payment in the amended sum of £3270.25, with interest at the rate of 8% per annum on the outstanding rent arrears.

Findings in Fact and Law

7.
 - (i) Parties entered into a private residential tenancy that commenced on 19th November 2020 with a monthly rent of £635.
 - (ii) The monthly rent was increased to £660 by rent increase notice dated 29th October 2021.
 - (iii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondents.
 - (iv) The Applicant is entitled to recover rent lawfully due.
 - (v) The Applicant is entitled, in terms of the tenancy agreement between the parties, to recover reasonable costs incurred through the Respondents’ failure to pay rent on time.

Reasons for Decision

8. The Respondents have failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.
9. The tenancy agreement provides at clause 8 for interest on any outstanding rent at the rate of 8% per annum.
10. The tenancy agreement provides at clause 8 that the Tenant shall be held liable for any further reasonable costs incurred by the Landlord through the Tenant's failure to pay rent on time including, but not limited to any administrative charges or late fees made by the Landlord's bank, any

expenses incurred by the Landlord in pursuing the Tenant for payment of said unpaid rent, legal or otherwise. The Tribunal considers that the cost of £668.30 as vouched for, is a reasonable cost incurred by the Respondents' failure to pay rent on time.

Decision

- 11.** An order for payment is granted in favour of the Applicant in the sum of £3270.25 with interest on the sum of £2601.95 at the rate of 8% per annum running from the date of decision 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.

H. Forbes

Legal Member/Chair

14th November 2023
Date