



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/2348

Re: Property at 19 Rosepark Avenue, Uddingston, Glasgow, G71 6JD (“the Property”)

Parties:

Mr Neil Joseph Duffy, 33 The Cuillins, Uddingston, Glasgow, G71 6EY (“the Applicant”)

Mr David Alexander McCaig, 19 Rosepark Avenue, Uddingston, Glasgow, G71 6JD (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £7,900, with interest thereon at the rate of 4% per annum from the date of the Tribunal’s Decision until payment.

Background

1. By application, dated 14 July 2023, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicants. The sum sought was £5,900.00. The Applicant was also seeking an award of interest on the principal sum at 8% from the date of the Tribunal’s Decision or any such rate the Tribunal considers appropriate.
2. The application was accompanied by a copy of a Private Rented Tenancy Agreement between the Parties commencing on 18 October 2021 at a monthly rent of £500, and a Rent Statement showing arrears at 18 June 2023 of £5,900.

3. On 9 October 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 30 October 2023. The Respondent did not make any written representations to the Tribunal.
4. On 23 October 2023, the Applicant's solicitors provided an updated Rent Statement showing arrears of £7,900 at 18 October 2023, and sought leave to amend the application to increase the sum sought to that amount.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 14 November 2023. The Applicant was represented by Miss Nicola Brechany of TC Young, solicitors, Glasgow. The Respondent was not present or represented.
6. The Applicant's representative told the Tribunal that the arrears remain at £7,900. She was also seeking an Order to include interest on that sum, partially by way of compensation to the Applicant for his loss of rental income over a prolonged period and also taking account of the current economic climate and the fact that mortgage rates have increased substantially in the period during which the Respondent has failed to pay any rent.

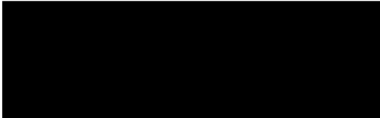
Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. The Tribunal was content to allow the amendment sought in respect of the sum due and was satisfied that the amount now sought had become lawfully due by the Respondent to the Applicant.
9. The Tribunal noted that the Applicant has a mortgage over the Property, that interest rates on mortgages have increased substantially since the Respondent stopped paying rent and that the economic climate has placed added financial pressure on the Applicant over the lengthy period during which the Respondent has paid no rent whatsoever. The Tribunal also noted that the Respondent has made no representations in relation to the application. In the particular circumstances of this case, therefore, the Tribunal decided that it was prepared to exercise its discretion to make an award of interest on the principal sum and that a reasonable rate would be 4% per annum from the date of the Tribunal's Decision until the date of 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

Date: 14 November 2023