



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/23/2995

Property : 141 High Street, Burntisland KY3 9AE (“Property”)

Parties:

L&M Properties, 57 Old Kirk Road, Dunfermline KY12 7SQ (“Applicant”)

Charles Wood & Son, 37 Kirk Wynd, Kirkcaldy KY1 1EN (“Applicant’s Representative”)

John Hume otherwise known as John Campbell, 141 High Street, Burntisland KY3 9AE (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for payment of £3450 plus interest thereon at the rate of 5% above the base lending rate of the Bank of Scotland from time to time from 7 December 2023 until payment.

Background

The Applicant sought an order for payment of £3450 in respect of arrears of rent plus interest at the rate of 5% above base rate of the Bank of Scotland. The Applicant had lodged Form F. The documents produced were: a Tenancy Agreement dated 28 July 2022 and a statement of rent arrears. The Tribunal had sight of a certificate of service by sheriff officer confirming service of the Application on the Respondent on 30 October 2023. On 15 November 2023 the Respondent lodged an application for time to pay at the rate of £20 per week. In the application the Respondent stated that he had legally changed his name to John Hume. On 28 November 2023 the Applicant’s Representative lodge a response to the application for time to pay rejecting the proposal.

Case Management Discussion (“CMD”)

A CMD took place on 7 December 2023 by conference call. Graham Reid of the Applicant’s Representative was in attendance. There was no appearance by or on behalf of the Respondent. Mr Reid told the Tribunal that the Applicant had not been aware that the Respondent had changed his name until receipt of the application for time to pay. Mr Reid told the Tribunal that the Respondent had entered into a protected trust deed and was listed on the register of insolvencies with the name “Hume.” He sought to amend the name of the Respondent to “John Hume otherwise known as John Campbell”. Mr Reid told the Tribunal that the Respondent had occupied the Property for some time with fresh tenancy agreements being put in place on a rolling basis. He told the Tribunal that the arrears now stood at £4500 and there had been no payments to account by the Respondent. In the circumstances Mr Reid submitted that it would not be reasonable to grant the application for time to pay.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 28 July 2022.
2. In terms of the tenancy agreement the rent was £350 per month.
3. The Respondent failed to pay the rent in full for the period August 2022 to August 2023. The unpaid amount was £3450.
4. In terms of clause 15 of the tenancy agreement the Applicant is entitled to interest on unpaid rent at the rate of 5% above the base lending rate of the Bank of Scotland from time to time

Reasons for the Decision

The Tribunal determined to allow the name of the Respondent to be amended, to refuse the application for time to pay and to make an Order for payment in respect of the sum claimed plus interest at the contractual rate. In terms of the tenancy agreement rent was due at the rate of £350 per month. The Respondent had failed to pay the rent in full for the period August 2022 to August 2023. The balance due was £3450. In terms of clause 15 of the tenancy agreement the Applicant is entitled to interest at the rate claimed. The Tribunal considered that it would not be reasonable to allow the application for time to pay due to the length of time it would take to repay the debt. The Tribunal took into account the increase in the debt since the application had been lodged, the failure of the Respondent to make any payments to account

(aside from two payments of £200 in March and June 2023) and that the income shown on the application for time to pay was now uncertain as the Respondent had ceased employment on 25 November 2023.

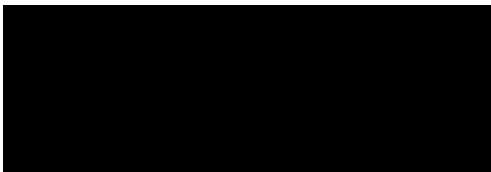
Decision

The Tribunal grants an order for payment of £3450 plus interest thereon at the rate of 5% above the base lending rate of the Bank of Scotland from time to time from 7 December 2023 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



Date : 7 December 2023