



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/23/2880

Re: Property at 17 Tarfside Avenue, Glasgow, G52 3DQ (“the Property”)

Parties:

Mr David Purdon, 116 Crookston Avenue, Glasgow, G52 3PR (“the Applicant”)

Mr Craig Dollard, 17 Tarfside Avenue, Glasgow, G52 3DQ (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the respondent to the Applicant in the sum of £31268.40.

Background

1. By application dated 22 August 2023 the Applicant’s representatives, Complete Clarity, Solicitors, Glasgow, applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondents’ tenancy of the property. The Applicants submitted a copy of the tenancy agreement together with a rent statement in support of the application.
2. By Notice of Acceptance dated 11 September 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 2 November 2023.

4. By email dated 28 November 2023 the Applicant's representatives submitted further written representations to the Tribunal by way of an updated rent statement.

The Case Management Discussion

5. A CMD was held by teleconference on 5 December 2023. The Applicant was represented by Ms Siobhan Brown from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in his absence.
6. Ms Brown advised the Tribunal that the rent arrears currently amounted to £32754.40. She accepted that the sum claimed had not been amended in accordance with the Tribunal rules and that in the circumstances the Tribunal could only award the sum previously claimed namely £31268.40 and asked the Tribunal to grant an order for payment in that amount together with interest at the rate of 8% per annum.
7. In response to a query from the Tribunal as to why the arrears had been allowed to reach such a high level with no rent having been paid since October 2018 Ms Brown explained that the Applicant's health had started to deteriorate around that time and her firm had only been instructed in March 2023. The Tribunal noted that there was no provision within the tenancy agreement for interest to be applied to unpaid rent although there was provision for administration charges.

Findings in Fact

8. The Respondent owed rent of £31268.40 as at the date of the application and this amount was still outstanding at the date of the CMD.

Reasons for Decision

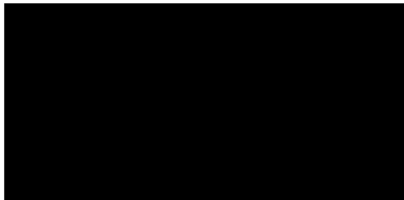
9. The Tribunal was satisfied from the written representations and documents submitted by the Applicant's representatives together with the oral submissions that the Applicant was entitled to an order for payment by the Respondent in the sum of £31268.40. The Tribunal considered the application for interest to be applied to the sum in terms of Rule 41A of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 however it did not consider that it would be appropriate to award interest. The Tribunal was concerned that the Applicant had allowed rent arrears to accrue for some five years before taking action to recover the debt.

Decision

10. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £31268.40.

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.



Graham Harding
Legal Member/Chair

5 December 2023
Date