

Housing and Property Chamber
First-tier Tribunal for Scotland



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/23/0773

Re: Property at 38 Townhead Road, Inverurie, AB51 4RZ (“the Property”)

Parties:

Mr Kevin Christopher Bannister and Mrs Judith Bannister of 55 Coxford Close, Southampton, Hampshire, SO16 6DD (“the Applicants”) per their agents Aberdein Considine & Company 5-9 Bon Accord Crescent, Aberdeen, AB11 6DN (“the Applicants’ Agents”)

Mr Andrew Gordon Moores of 38 Townhead Road, Inverurie, AB51 4RZ (“first-named Respondent”) and Mr Edward Anthony Moores of 10 Millfield Avenue, Inverurie, AB51 4UF (“the second-named Respondent”) per his agents Blackadders LLP having an office at 30-34 Reform Street, Dundee, DD1 1RJ (“the second-named Respondent’s Agents”)

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order in the sum of Thirty Thousand One Hundred and Fifty Two Pounds and 36 Pence (£30,152.36) together with interest at Nine per centum per annum (9%) be granted in respect of the First-named Respondent, Mr Andrew Gordon Moores of 38 Townhead Road, Inverurie, AB51 4RZ

The Tribunal dismissed the Application against the second-named Respondent, Mr Edward Anthony Moores of 10 Millfield Avenue, Inverurie, AB51 4UF.

Background

1. By application received between 10 March 2023 and 31 March 2023 (“the Application”), the Applicants’ Agents applied to the Tribunal for an Order for payment of rent due and owing arising from a short assured tenancy between the Applicants and the first-named Respondent and in respect of which the second-named Respondent acts as a guarantor. The Application comprised a copy of the short

assured tenancy agreement at a rent of £800.00 per month, a rent statement showing £24,905.22 due and owing at March 2023. The Application was accepted by the Tribunal and a Case Management Discussion (the "CMD") was fixed for 16 October 2023 at 10.00 by telephone conference.

CMD

2. The CMD took place on 16 October 2023 at 10.00 by telephone. The Applicants did not take part and was represented by Mr. E. Forbes of the Applicants' Agents. The first-named Respondent, Mr. A. Moores, took part and was not represented. The second-named Respondent did not take part and was represented by Ms. F. Muirs of the second-named Respondent's Agents.
3. At the CMD, the first-named Respondent, Mr. A. Moores, accepted that he owes rent now amounting to over £30,000.00 as notified by the Applicant's Agents. He indicated that he was able to make payment within three months and did not wish his father to liable for the debt.
4. The Tribunal continued the CMD for the first-named Respondent, Mr. A. Moores, to make payment. The Tribunal issued a Direction requiring Mr. A. Moores to provide detail of his income and outgoings. The Direction was not complied with.

Continued CMD

5. The continued CMD took place on 15 January 2024 at 14.00 by telephone. The Applicants did not take part and was represented by Mrs. Elder of the Applicants' Agents. The first-named Respondent, Mr. A. Moores, took part and was not represented. The second-named Respondent did not take part and was represented by Ms. Milne of the second-named Respondent's Agents.
6. Mrs. Elder confirmed that the sum sought is £30,152.36 together with interest at 9%. She stated that no payments had been received.
7. The first-named Respondent, Mr. A. Moores, accepted the sum sought and stated that he had not complied with the Direction as it had slipped his mind. He stated firmly that the debt would be repaid on 28 January 2024 as he had arranged with a friend to make payment from the friend's account. He maintained that he had advised the Applicants' Agents of this.
8. With regard to the second-named Respondent, Mr. E. Moores, Mrs Elder advised that Applicants did not seek an order.

Findings in Fact

9. From the Application and the CMDs, the Tribunal made the following findings in fact:-
 - i) There is a tenancy of the Property between the Applicants and the first-named Respondent;

- ii) The first-named Respondent owes a debt of £30,152.36 in respect of in respect unpaid rent;
- iii) The tenancy agreement provides for interest on unpaid rent at 4% above Royal Bank of Scotland base rate;
- iv) The Applicants are entitled to an Order for £30,152.36 plus interest at 9% against the first-named Respondent and
- v) The first-named Respondent accepts his liability to the Applicants.

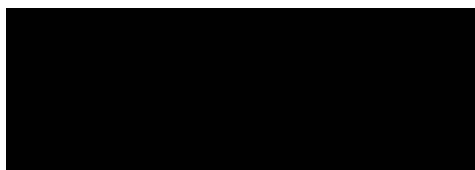
Decision and reasons for the decision

10. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussionincluding making a decision” Having found in fact that the first-named Respondent is due and owing to the Applicant for the sum of £30,152.36 plus interest at 9%, the Tribunal proceeded to make an order for payment in this sum.

11. For the sake of completeness, the Tribunal dismissed the Application against the second-named Respondent.

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

15 January 2024
Date