

Housing and Property Chamber

First-tier Tribunal for Scotland



Re: Property at 14 Anford Terrace, Auchinraith Road, Blantyre, G72 0HQ (“the Property”)

Parties:

Sunny Chako and Jessy Joseph, both residing at 31 Waterloo Gardens, Ashton Under Lyne, Lancashire, OL6 9RD (“the Applicants”) and

Bannatyne Kirkwood France & Co Solicitors, Exchange House, 16 Royal Exchange Square, Glasgow, G1 3AG (“the Applicants’ Representative”)

Ms Sarah Kearney, formerly residing at 14 Anford Terrace, Auchinraith Road, Blantyre, G72 0HQ and whose present address is unknown (“the Respondent”)

Tribunal Member:

G McWilliams- Legal Member

Decision in absence of the Respondent

Background

- 1. The Applicant had applied under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”) (Application for civil proceedings in relation to a private residential tenancy) for an order for payment in respect of rent arrears.**

Case Management Discussion

- 2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 10.00am on 8th February 2024. The Applicant’s Representative’s Ms A. Woolley, attended. The Respondent Ms Kearney did not attend and was not represented. Sheriff Officers intimated the Application and effected notification of the CMD to Ms Kearney, by depositing the relevant papers through the letterbox of the Property on 15th December 2023. When the Applicant’s Representative informed the Tribunal, on 4th January 2024, that Ms Kearney had vacated the Property,**

the Tribunal's Office arranged for service of the Application and notification of CMD papers on Ms Kearney by advertisement on the Tribunal's website from 9th January 2024.

3. Ms Woolley said that neither she nor the Applicants are aware of Ms Kearney's current address. Ms Woolley stated that as the Applicants could not be clear as to the exact date that Ms Kearney left the Property they sought an order for payment of outstanding rent arrears in the amount claimed in the Application, of £7,850.00. She further sought, as also stated in the Application, that interest be applied to the payment sum ordered by the Tribunal and suggested that interest at 3% above the existing base rate be applied. She stated, however, that she was content to leave the issue of interest in the hands of the Tribunal.

Statement of Reasons for Decision

4. In reaching their decision the Tribunal had regard to the terms of Section 71 of The Private Housing (Tenancies) Act 2016 provides as follows:

- (1) In relation to civil proceedings arising from a private residential tenancy-
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-
 - (a) the prosecution of a criminal offence,
 - (b) any proceedings related to such a prosecution.

5. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicants) for payment of unpaid rent against a tenant (such as the Respondent) in respect of a Private Residential Tenancy ("PRT").

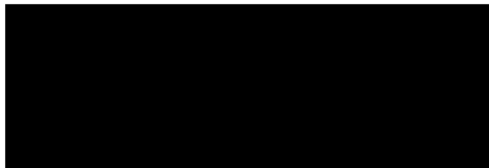
6. The Tribunal considered all of the Application papers, and the submission of Ms Woolley. Having done so, the Tribunal found in fact, on a balance of probabilities, and in law that Ms Kearney owes rent arrears, arising from the parties' PRT, in the sum of £7,850.00. Ms Kearney had not lodged representations with the Tribunal or attended the CMD to provide any evidence, and/or make any submission, to oppose and contradict the basis for the order sought by the Applicants. Accordingly, the Tribunal was satisfied that it was reasonable to grant an order for payment by the Respondent, Ms Kearney, to the Applicants, Mr Chako and Ms Joseph, in the sum of £7,850.00. Given the extent of the rent arrears the Tribunal also considered it appropriate to apply interest to the sum ordered at the rate of 3% per annum from the date of the order, 8th February 2024, until payment.

Decision

7. Therefore, the Tribunal made an order for payment by the Respondent, Mr Sarah Kearney, to the Applicants, Mr Sunny Chako and Ms Jessie Joseph, of the sum of SEVEN THOUSAND EIGHT HUNDRED AND FIFTY POUNDS (£7,850.00) STERLING with interest thereon at the rate of 3% per annum 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

8th February 2024

Date