



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/23/3105

Re: Property at 25 Station Road, Kelty, KY4 0BL (“the Property”)

Parties:

Mr William Russell, La Plechade, 25 Chemin de Chapelier, Luby Betmont, France, 65220, France (“the Applicant”)

Ms Lorna Stewart, 25 Station Road, Kelty, KY4 0BL (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and John Blackwood (Ordinary Member)

Decision(in the absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of SIX THOUSAND EIGHT HUNDRED POUNDS (£6800) STERLING with interest at the rate of 7 % per annum until payment. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

- 1. This is an action for recovery of rent arrears raised in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a copy of a Short Assured tenancy dated 26 May 2017, an AT5 dated 26 May 2017, a rent statement to 30 September 2023 and a letter dated 30 April 2023 addressed to the Respondent,**

3. On 13 October 2023 the Tribunal accepted the application under Rule 9 of the Regulations 2017.
4. On 16 November 2023 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 7 December 2023. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 12 January 2024. This paperwork was served on the Respondent by William Wywalec, Sheriff Officer, Kirkcaldy on 17 November 2023 and the Execution of Service were received by the Tribunal administration.
5. The Tribunal issued a Notice of Direction for the Applicant to lodge an up to date rent statement together with correspondence with the Respondent regarding the arrears. The Applicant’s solicitor responded accordingly.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 12 January 2024 by way of teleconference. The Applicant was represented by Mr Jarvie from Bannatyne Kirkwood France, solicitors. The Respondent was not present or represented despite the Tribunal starting 5 minutes late to allow the Respondent time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded in her absence. The case was heard together with an arrears action under reference FTS/HPC/EV/23/3102.
7. Mr Jarvie asked the Tribunal to grant an Order for £6800 as shown in the rent statement lodged. The arrears were substantial and currently stood at £7200 having increased. There had been no payment since 7 October 2022. He also asked for interest of 7% in terms of the Tribunal’s discretionary power to award interest.

Reasons for Decision

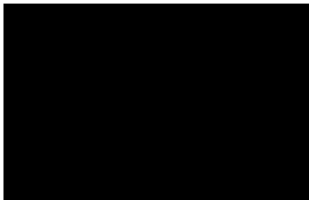
8. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Jarvie.
9. The Tribunal noted terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to 31 December 2023 of £8600. The Applicant had produced evidence of persistent non- payment of rent. The Respondent had not paid rent since 7 October 2022. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Jarvie’s submissions that the order for payment in favour of the Applicant be granted. The Tribunal also granted an award of 7% interest in terms of Rule 41A of the Regulations.

Decision

10. The Tribunal granted an order for payment of £6800 together with interest at 7% 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 Chair

Date 14 January 2024