



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/23/4326

Property : Flat 2/1, 6 Raglan Street, Dundee DD4 6NU (“Property”)

Parties:

Joginder Singh Athwal and Sukhminder Kaur Athwal, 9 Gilston Place, Broughty Ferry, Dundee (“Applicant”)

Gilson Gray LLP, 29 Rutland Square, Edinburgh EH1 2BW (“Applicant’s Representative”)

Alexander Chisholm, Flat 2/1, 6 Raglan Street, Dundee DD4 6NU (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that: (1) an order for payment of £9408 plus interest thereon at the rate of 5% above the base rate of the Royal Bank of Scotland from 9 April 2024 until payment should be made and (2) an order for payment of £2577.22 should be made.

Background

The Applicant sought an order for payment of £9408 plus interest at the rate of 5% above the base rate of the Royal Bank plus reasonable costs. The Applicant had lodged Form F. The documents produced were: a short assured tenancy between the Applicant and the Respondent dated 8 March 2017 and a rent statement. As regards service of the application on the Respondent, the Tribunal had sight of a certificate of service by advertisement on the Tribunal website between 6 March 2024 and 9 April 2024.

By email from the Applicant’s Representative dated 26 March 2024 the Applicant sought to amend the sum claimed to include costs incurred by the Applicant of £2577.22. The Applicant’s Representative lodged copy invoices in the sums of

£544.68; £462.82; £240; £897.19 and £432.53 each of which contained an explanation of the work to which the invoice related.

Case Management Discussion

A CMD took place before the Tribunal on 9 April 2024 by teleconference. The Applicant was represented by David Gray of the Applicant's Representative. There was no appearance by the Respondent. Mr Gray told the Tribunal that the rent arrears covered the period from July 2021 to December 2023. He said that an application for an eviction order had been made and that whilst an order had been granted, the Respondent left the Property voluntarily at the end of 2023. Mr Gray told the Tribunal that the Respondent had various personal challenges which meant that the rent was sometimes paid and then communication would cease and the arrears would build up. As regards the claim for payment of costs, the Tribunal noted that the invoices were addressed to Pavilion Properties. Mr Gray said that they were the letting agents who managed the Property. He said they passed the costs directly to the Applicant who cannot recover VAT.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 8 March 2017 ("Tenancy Agreement").
2. In terms of the Tenancy Agreement the rent was £360 per month.
3. In terms of clause 2 of the Tenancy Agreement the Respondent undertook to pay to the Applicant interest on rent which remained unpaid for seven days at the rate of 5% above the base rate of the Royal Bank of Scotland.
4. In terms of clause 19 of the Tenancy Agreement the Respondent undertook to pay to the Applicant any costs incurred by the Applicant in enforcing the terms of the tenancy agreement.
5. The Respondent failed to pay the rent in full for the period July 2021 to December 2023. The unpaid amount was £9408.00.
6. The Applicant incurred costs of £2577.22 in enforcing the terms of the Tenancy Agreement.

Reasons for the Decision

The Tribunal determined to make an Order for payment. In terms of the tenancy agreement rent was due at the rate of £360 per month. The rent was not paid in full

for the period July 2021 to December 2023. The unpaid amount was £9408.00. In terms of clause 2 of the Tenancy Agreement the Respondent undertook to pay to the Applicant interest on rent which remained unpaid for seven days at the rate of 5% above the base rate of the Royal Bank of Scotland. The Applicant was therefore entitled to interest on unpaid rent. In terms of clause 19 of the Tenancy Agreement the Respondent undertook to pay to the Applicant any costs incurred by the Applicant in enforcing the terms of the tenancy agreement. Having considered the terms of the invoices lodged the Tribunal determined that the costs claimed were reasonable and were properly recoverable in terms of the Tenancy Agreement.

Decision

The Tribunal grants an order for payment of (1) £9408 plus interest thereon at the rate of 5% above the base rate of the Royal Bank of Scotland from 9 April 2024 until payment and (2) £2577.22.

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.

Joan Devine

Legal Member

Date : 9 April 2024