



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 (“the 2014 Act”) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Re: Property at Gate Lodge Cottage, Sibbalds Brae, Bathgate, EH48 2DU (“the Property”)

Parties:

Hallam Land Management Limited, Banner Cross Hall, Ecclesall Road South, Sheffield, S11 9PD (“the Applicant”)

Mr Thomas Wood (SBA), present whereabouts unknown (“the Respondent”)

Tribunal Members:

Ms Susanne Tanner K.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that the Respondents should pay to the Applicant the sum of TWO THOUSAND FOUR HUNDRED AND SEVENTY SIX POUNDS AND 29 PENCE (£4887.85) STERLING; and made an Order for Payment in respect of the said sum.

Statement of Reasons

1. On 3 November 2023, the Applicant’s Representative made an Application seeking payment of rent arrears of £3475.00 by the Respondent, together with interest from the date of any decision and order. Supporting evidence was produced, including a private residential tenancy agreement and a rent statement.
2. The Application was accepted for determination.

3. Service on the Respondent of the Application paperwork was Service by Advertisement page of the website of the First-tier Tribunal for Scotland Housing and Property Chamber from 8 April 2024 until 2 May 2024.
4. No written representations were submitted by the Respondent in advance of the CMD and he did not make any contact with the tribunal's administration.
5. A Case Management Discussion (CMD) took place on 2 May 2024 at 1000 by teleconference.
6. The Applicant's Representative, Ms Wooley attended the CMD on behalf of the Applicant.
7. The Respondent did not attend the CMD. He made no contact with the tribunal after service of the Application paperwork and did not state any defence to the Application.
8. The tribunal decided to proceed with the Application in the absence of the Respondent. The tribunal was satisfied that the requirements of rule 24(1) of the 2017 Rules regarding the giving of notice of a CMD had been duly complied with and proceeded with the Application upon the representations of the party present and all the material before it.
9. The tribunal heard from Ms Wooley in relation to the Application.
10. She made an application to amend the sum claimed to the higher sum of £4887.85. An application for amendment with an updated rent statement had been lodged with the tribunal 13 days prior to the CMD. Ms Wooley submitted that the amendment should be allowed, although one day late, in terms of section 16A of the 2017 Rules. Ms Wooley explained that the updated rent statement had been provided to the Applicant's Representative more than 14 days before the CMD but that it had been noticed that the final rent payment due had not been apportioned to take account of the date upon which the Property was recovered, which was 12 December 2023. Ms Wooley noticed the error and took time to liaise with the Applicant to have the notice corrected, which resulted in the rent statement not being received by the tribunal until 13 days before the CMD. She did not want to submit an incorrect statement purely for the purpose of meeting the timescale. Ms Wooley stated that there has been no contact from the Respondent for some time. The last rent payment was made in April 2023. The Applicant's representative attempted to trace a new address for him but has been unable to reach him. All email communication from the Applicant and Applicant's Representative to the Respondent on the email address in the tenancy agreement has not received any response. The Applicant had no communication from the Respondent to indicate whether he had left the Property. They conducted an inspection on 12 December 2023. There was evidence that he had vacated. That is the date upon which they took possession of the Property.

11. Having heard and considered Ms Wooley's submissions, I decided to allow the amendment to the sum claimed to £4887.85. I did so in terms of Rule 16A of the 2017 Rules by shortening the period for intimation of the application to amend.
12. Ms Wooley sought a payment order for £4887.85, as amended, and interest from the date of the decision / order at base rate (5.25 per cent per annum) plus 3 per cent per annum, totalling 8.25 per cent per annum.
13. There was no defence to the Application, as amended.

Findings-in-Fact

14. The Applicant is the registered proprietor of the Property.
15. In terms of a Private Residential Tenancy agreement between the parties in respect of the Property, the start date of the tenancy was 12 July 2019.
16. Rent was payable by the Respondents to the Applicant from the start of the tenancy at the rate of £695.00 per calendar month in advance, on 12th of each month until the end of the tenancy on 12 December 2023.
17. The past payment of rent made by the Respondent was 11 April 2023.
18. The Applicant took possession of the Property on 12 December 2023.
19. The rent arrears as at 12 December 2023 amounted to £4887.85.
20. The Respondent's present whereabouts are unknown.
21. The Respondent has not responded to correspondence from the Applicant or the Applicant's representative which was sent to the email address on the Private Residential Tenancy agreement.
22. The Respondent has not made any payment towards the rent arrears following the end of the tenancy and the rent arrears as at 2 May 2024 amount to £4887.85.

Discussion

23. As the tribunal was satisfied that the Respondent owes £4887.85 to the Applicant by way of rent arrears for the tenancy of the Property in the period to 12 December 2023, the tribunal made an Order for Payment of that sum.

24. In addition, the tribunal considered the application for interest. I was satisfied that interest should be awarded on that sum but not at the rate sought by the Applicant's Representative. I award interest at the rate of 5.25 per cent from the date of the decision and order, namely 2 May 2024 until payment, and made a payment order on that basis.

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.

**Ms Susanne Tanner K.C.
Legal Member/Chair**

2 May 2024