



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/23/4504

Re: Property at 2 Shawhead Cottage, Lockerbie, DG11 1DE (“the Property”)

Parties:

Castle Milk Trust, Castle Milk Trust, Castle Mile and Corries Estates, Norwood, Lockerbie, DG11 2QX (“the Applicant”)

Miss Joanne Kirkpatrick, 2 Shawhead Cottage, Lockerbie, DG11 1DE (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Tony Cain (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be made.

Background

1. The Applicant lodged an application on 13th December 2023 under Rule 70 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking payment of a sum of rent arrears.
2. Lodged with the Application were:
 - a. Copy Short Assured Tenancy
 - b. Rent Statement to 11th December 2023
3. The Application was served on the Respondent by Sheriff Officer on 14th March 2024.

Case Management Discussion

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by Mr Miller of Anderson Strathern, Solicitors. The Respondent represented herself.
5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules.
6. Mr Miller asked that an order be granted for payment in the amount of £5665.13, being the sum due as shown on the rent statement, with interest at the rate of 4% above the base rate for the time being charged by the Royal Bank of Scotland on unsecured overdrafts, in accordance with clause FOUR of the lease.
7. The Respondent was not sure what the outstanding figure for arrears was but had provided no evidence to suggest it was different.

Findings in Fact

- i. The parties entered in to a tenancy agreement for rent of the property;
- ii. The monthly rent was £75 per week, rising to £85 per week, then £87.31 per week;
- iii. On 1st April 2024 the rent arrears owed were £5665.13;
- iv. The interest sought was as per clause FOUR of the lease;
- v. The rate of interest sought was unfair.

Reasons for Decision

8. The Respondent owes rent to the Applicant as at 1st April 2024 in the amount of £5665.13.
9. The Tribunal were not prepared to grant interest on the sum ordered as the interest rate was considered by them to be grossly excessive and unfair. Adding four per cent to base rate would give a figure in excess of 9 per cent, which is in excess of what a reasonable lending institution would charge to provide a personal loan.

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.

18 April 2024

Legal Member/Chair

Date