

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision 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/23/4607

Re: Property at 59 Calside, Paisley, PA2 6DH (“the Property”)

Parties:

Ms Margaret Rose Hargadon (formally McCool), 37 Anchor Crescent, Paisley, PA1 1LX (“the Applicant”)

Mr Sean Rodden, 59 Calside, Paisley, PA2 6DH (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in 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 TWO THOUSAND TWO HUNDRED AND FIVE POUNDS (£2205.00) STERLING with interest at 8% per annum. 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 tenancy agreement dated 12 November 2015, between the Applicant and the Respondent, and a rent statement showing rent outstanding of £630, when the application was submitted to the Tribunal on 20 December 2023.

3. On 30 April 2024, the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the

Regulations would proceed on 6 June 2024. The Respondent required to lodge written submissions by 21 May 2024. This paperwork was served on the Respondent by Sheriff Officers on 1 May 2024 and the Execution of Service was received by the Tribunal administration.

4. The Respondent did not lodge any written representations.

5. On 14 May 2024 the Applicant intimated to the Tribunal in terms of Rule 14A of the Regulations that she was seeking to amend the sum claimed to £2205. An updated rent statement was provided. This application was served on the Respondent by the Applicant's representative by first class and recorded delivery mail.

6. The case was conjoined with an action for Eviction raised under chamber reference FTS/HPC/EV/23/4605.

Case Management Discussion ('CMD')

7. The Tribunal proceeded with the CMD on 6 June 2024 by way of teleconference. The Applicant was represented by Ms Callaghan from TC Young solicitors. There was no appearance by or on behalf of the Respondent despite the teleconference starting 5 minutes late. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations, and accordingly proceeded with the CMD in his absence. Ms Callaghan advised that the Respondent had not been in touch with either the Applicant, or her firm, since the application was made to the Tribunal. She said that the relationship between the parties had broken down.

8. The Tribunal considered the terms of the documents lodged with the Tribunal.

9. Ms Callaghan explained she was seeking an order for arrears of rent in the sum of £2205 with 8% interest per annum from the date of the order. The Respondent had failed to pay rent since October 2023 and was in arrears of £2205.

Findings in Fact

10. The Applicant entered into an Assured Tenancy Agreement dated 12 November 2015 with the Respondent

11. In terms of the Assured Tenancy Agreement the Respondent agreed to pay rent of £315 per calendar month, said payments being due on the 12th day of each month, and due monthly in advance.

12. In terms of Rule 14A of the Regulations, the Applicant sought interest on the rental arrears due, at the rate of 8% per annum. The Respondent started to accrue arrears from November 2023. The Respondent has been in arrears of rent ever since. The Respondent was in arrears of £630 as at the date of the application, and £2205 at the date of the CMD.

13. No contractual rate of interest was specified in the Assured Tenancy Agreement.

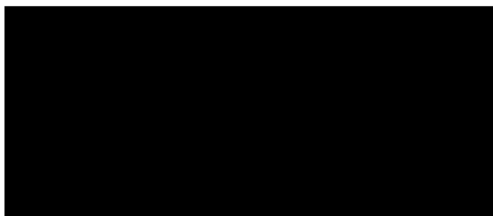
Reasons for Decision

14. 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 Ms Callaghan.

15. The Tribunal noted the terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to now amount to £2205. Nothing had been paid by the Respondent since October 2023. The Applicant produced evidence of persistent non- payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Ms Callaghan's submissions that the order for payment in favour of the Applicant be granted for the sum of £2205. Further, the Tribunal was satisfied that the Applicant was entitled to interest on the outstanding arrears of 8% per annum, from the date of the Decision and Order of the Tribunal, which is the judicial rate of interest. The decision of the Tribunal was unanimous.

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/Chair

6 June 2024

Date