



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/24/0158

Re: Property at 101 Greenock Road, Inchinnan, Renfrew, PA4 9LD (“the Property”)

Parties:

Neil Donnelly Lashmar, Tandridge Lane, Oxted, Surrey, RH8 9NN and Tracey Donnelly The Old Mill, Houston Road, Crosslee, Johnstone, PA6 7AW (“the Applicants”)

Ailsa Livingstone and Daniel Smith, 101 Greenock Road, Inchinnan, Renfrew, PA4 9LD (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondents in favour of the Applicants in the sum of TWO THOUSAND NINE HUNDRED AND TWENTY FIVE POUNDS (£2925) STERLING. The order for payment will be issued to the Applicants 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 Respondents.

Background

- 1. This is an action for rent arrears and interest raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 2 December 2022, a rent statement to**

2 January 2024 and letters to the Respondents from Pennylane Homes Renfrew.

3. On 12 February 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 17 April 2024 the Tribunal enclosed a copy of the application and invited the Respondents to make written representations to the application by 8 May 2024. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 28 May 2024. This paperwork was served on the Respondents by Paul Miller, Sheriff Officer, Glasgow on 18 April 2024 and the Executions of Service were received by the Tribunal administration.
5. The Respondents did not lodge any written representations by 8 May 2024.
6. On 14 May 2024 the Applicants' solicitor forwarded an up to date rent statement to 2 May 2024 showing arrears had increased to £2925. Both Respondents were copied in on this email.

Case Management Discussion

7. The Tribunal proceeded with a CMD on 28 May 2024 by way of teleconference. Ms Wooley from Bannatyne Kirkwood France and Co, solicitors appeared for the Applicants. There was no appearance by or on behalf of the Respondents despite the CMD starting 10 minutes late to allow them plenty of time to join the call. The Tribunal was satisfied the Respondents had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in their absence. The case was heard together with a case for eviction under case reference number FTS/HPC/EV/24/0157.
8. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 2 December 2022, the rent statement to 2 May 2024 and the letters from Pennylane Homes Renfrew. The Tribunal considered these documents.
9. Ms Wooley moved the Tribunal to grant a payment order for £2925 plus interest at 3% above the base rate. Arrears had increased from £2600 when the application was submitted and have now increased to £2925 as at 2 May

2024. Although some payments were being made, arrears were still increasing and there was no prospect of the arrears being reduced to nil anytime soon. There was no contractual basis for interest. She was seeking the Tribunal's discretion to award interest in terms of the Regulations.

10. She further submitted that arrears had accrued when Mr Smith had a car accident and was absent from work. She understood he was in full time employment again. Ms Livingstone had recently contacted her after she received the up to date rent statement sent on 14 May 2024. Ms Livingstone claimed that Mr Smith had changed the locks at the Property and as far as she could make out from what she had been told by Ms Livingstone the arrears had accrued after she left the Property. She directed Ms Livingstone to the Tribunal and gave her the dial in details for the CMD and urged her to seek independent legal advice.

Reasons for Decision

11. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent statement. Further the Tribunal considered the submissions made by Ms Wooley.
12. The Tribunal was satisfied that the arrears had increased from the date of application to £2925 and accordingly allowed the sum sought to be amended in terms of Rule 14A of the Regulations.
13. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicants had produced evidence of persistent non-payment of rent. The Respondents had not disputed the application. Further the Tribunal used its discretion and allowed interest at the rate of 8% being the judicial rate of interest in terms of Rule 41A of the Regulations. The Tribunal was satisfied on the basis of the documents lodged, together with Ms Wooley's submissions that an order for payment in favour of the Applicants be granted with interest at 8%.

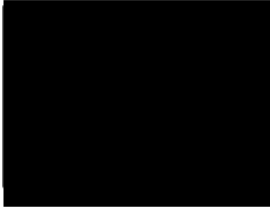
Decision

14. The Tribunal granted an order for payment of £2925 with interest at 8% per annum from the date of Order in favour of the Applicants.

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.



28 May 2024

Legal Member

Date