



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/4389

Re: Property at 27 Kinnaird Place, Dunfermline, KY12 0XL (“the Property”)

Parties:

Mr Kyle Chisholm, 3 Willow Crescent, Rosyth, KY11 2ZS (“the Applicant”)

Mr Keith Peter Donald, 27 Kinnaird Place, Dunfermline, KY12 0XL (“the Respondent”)

Tribunal Members:

Ruth O’Hare (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a payment order in the sum of Six thousand seven hundred and twenty three pounds and fifty pence (£6723.50) Sterling

Background

- 1 By application to the Tribunal the Applicant sought an eviction order against the Respondent in respect of the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). In support of the application the Applicant provided the following documentation:-
 - (i) Private Residential Tenancy Agreement between the parties;
 - (ii) Rent Statement; and
 - (iii) Copy correspondence from the Applicant’s representative to the Respondent.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on

which to reject the application. The application was therefore referred to a Case Management Discussion. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

- 3 On 29 April 2024 the Applicant's representative emailed the Tribunal with an updated rent statement confirming arrears of £6,723.50 as at April 2024.

Case Management Discussion

- 4 The Case Management Discussion took place by teleconference. The Applicant was represented by Mr Turner of Dyer and Co. He was accompanied by Ms Tracy Lang as an observer. The Respondent was not in attendance. The Tribunal noted that he had been served with the application paperwork which included the date and time of the Case Management Discussion and instructions for joining the teleconference. The Tribunal therefore determined to proceed in his absence, having been satisfied that the notification requirements under Rule 17 of the First-tier Tribunal for Scotland Rules of Procedure 2017 had been complied with in that reasonable notice of the Case Management Discussion had been given to the Respondent.
- 5 The Tribunal then heard from Mr Turner on behalf of the Applicant. He confirmed that the arrears now stood at £7336.35. The Applicant sought a payment order in the sum of £6723.50 as per the request for amendment that had been submitted to the Tribunal on 29 April 2024. The Respondent had made no offers of payment and was not willing to engage with the Applicant in that regard.

Findings in Fact

- 6 The parties entered into a Private Residential Tenancy Agreement which commenced on 4 October 2018.
- 7 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 8 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £595 per calendar month.
- 9 The rent was increased to £612.85 per month on 4 July 2023.
- 10 As at 29 April 2024 arrears in the sum of £6723.50 were outstanding.
- 11 The Respondent has refused, or delayed, in making payment of the outstanding arrears.

Reasons for Decision

- 12 The Tribunal was satisfied that it had sufficient information upon which to make a decision following submissions made at the Case Management Discussion, and that to do so would not be prejudicial to the parties. There were no issues to be resolved that would necessitate a hearing being fixed.
- 13 Based on its findings in fact the Tribunal was satisfied that the Respondent was in arrears in the sum of £6723.50 as at 29 April 2024. The Tribunal was further satisfied that the Applicant's request to increase the amount sought had been made timeously. There was nothing before the Tribunal to contradict the position put forward on behalf of the Applicant.
- 14 The Tribunal therefore made a payment order in the sum of £6723.50 against the Respondent.
- 15 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.

14 May 2024

Legal Member/Chair

Date