



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/0172

Re: Property at 3 Church Place, Ardrossan, KA22 8DS (“the Property”)

Parties:

Mr Gianpiero Narducci, 5 South Crescent Road, ARDROSSAN, KA22 8DU (“the Applicant”)

Ms Danielle McLaughlan, 3 Church Place, Ardrossan, KA22 8DS (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order be granted against the Respondent for payment to the Applicant in the sum of eleven thousand, six hundred and eighty-eight pounds and eighty-five pence (£11, 688.85) with interest thereon at the rate of 4% per annum until payment.

INTRODUCTION

1. This is an application under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 for a Payment Order in respect of rent arrears.
2. The Applicant is the Landlord and owner of the property. The Respondent is the Tenant. They entered into a Private Tenancy Agreement where the Respondent agreed to pay rent of £600 each calendar month, payable in advance.

3. The Applicant asserts that the Respondent has accrued rent arrears in the sum of £11,688.85 and is seeking a Payment Order in that sum with interest at 4% per annum.
4. A two-member Case Management Discussion took place at 10.00 am on 31 May 2024 by teleconference. The Applicant's wife, Mrs Narducci and Representative, Mr Caldwell joined the hearing.
5. The Respondent has failed to engage with the application. We decided to continue with the hearing in her absence after satisfying ourselves that the papers had been properly served on the Respondent, that she was notified of today's CMD and having regard to the overriding objective, as it was fair and just to do so.
6. Mr Caldwell informed us that rent arrears started to accrue from the outset. Initially there was some payment by the Local Authority, North Ayrshire Council, in respect of Housing Benefit but there was an underpayment that was not met by the Respondent. The Respondent did not make any attempt to meet the shortfall over the course of the Tenancy. Latterly, the Respondent started to pay £700 per month but the arrears by then were in excess of £8,000.
7. The Applicant and his wife are in their 80s and require the income from the rental property for their retirement. The property is making a loss and is a liability for them. They intend to exit the rental market.
8. At the time of the application on 12 January 2024, the arrears were in excess of £9,000 however the rent arrears figure, served on the Respondent at least 14 days before today's hearing, stands at £11,688.85. The last payment made by the Tenant was in November 2023 in the sum of £700. There have been no payments since then.
9. No information is known about the Respondent other than she is in her mid 40s and has two children. The property is a semi-detached new build property. Albeit there is no sign of the Respondent being at the property, the keys have not been handed in and there is a car there which indicates that she has not vacated the property. The Respondent uses social media and has been posting images of her new furniture for her new property but beyond that, it cannot be said that the Tenancy has ended until such times as she hands in the keys. The Applicant does not wish to enter the property without an Order.
10. The Applicant has two other rental properties and similar to this situation, only one tenant is paying and the other is not. The Applicant and his wife intend to sell the property as, despite the Respondent not paying rent, they are still

obliged to ensure that the property is insured, maintained and the safety certificates are in place.

11. We were satisfied that the Applicant is entitled to the payment of £600 per calendar month and that significant rent arrears have accrued over a significant period of time.
12. As at the current date, the amount of rent arrears totals £11,688.85. The Respondent has expressed no intention of paying that sum.
13. Having considered all of the information, individually and together, we were satisfied from the schedule of rent payments that the sum sued for is owed by the Respondent to the Applicant.
14. We decided to award 4% interest per annum, as applied for, as it was fair and reasonable to do so.

CONCLUSION

A Payment Order is granted against the Respondent for payment to the Applicant in the sum of eleven thousand, six hundred and eighty eight pounds and eighty five pence (£11, 688.85) with interest thereon at the rate of 4% per annum until payment.

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.

Lesley-Anne Mulholland

31 May 2024

Legal Member/Chair

Date