



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/24/0483

Re: Property at 11 Glenlee Street, Hamilton, South Lanarkshire, ML3 0QJ (“the Property”)

Parties:

Alan Campbell Properties Ltd, Limetree Garage, Glasgow Road, Hamilton, ML3 0RA (“the Applicant”)

Keith Terron Hill, 11 Glenlee Street, Hamilton, South Lanarkshire, ML3 0QJ (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Tony Cain (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 SEVEN HUNDRED AND EIGHTY POUNDS (£2780) 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 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 1 July 2022, a rent statement to 22 January 2024 and letters dated 8, 15 and 22 September 2023 from Excel Lettings to the Respondent.

3. On 1 March 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 21 May 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 11 June 2024. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 27 June 2024. This paperwork was served on the Respondent by Andrew McLean, Sheriff Officer, Glasgow on 30 May 2024 and the Execution of Service was received by the Tribunal administration.
5. On 12 June 2024 the Applicant’s solicitor forwarded an up to date rent statement to 1 June 2024 showing arrears of £2780 and seeking to increase the sum of arrears. The Respondent was copied in on this email.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 27 June 2024 by way of teleconference. Ms Wooley from Bannatyne Kirkwood France and Co, solicitors appeared for the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence. The case was heard together with a case for arrears under case reference number FTS/HPC/EV/24/0482.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 1 July 2022, the rent statement to 1 June 2024, letters dated 8, 15 and 22 September 2023 from Excel Lettings to the Respondent. The Tribunal considered these documents.
8. Ms Wooley moved the Tribunal to allow the arrears to be amended in terms of her email of 12 June. She moved the Tribunal to grant a payment order for £2780 plus interest at 8% as provided for in Clause 8 of the tenancy agreement. Arrears had increased from £1280 when the application was submitted and were now £2780 as at 1 June 2024. The last payment to account was for £100 on 13 October 2023. She understood the Respondent was in employment. He had never given any reason for the non payment of rent, There had been several attempts to enter into repayment plans, the last one being in January 2024 when the Respondent offered to pay £85 per week towards the arrears, but none had been adhered to. The Tribunal noted pre

action letters had been sent to the Respondent to highlight the arrears, encourage the Respondent to enter into an arrangement to clear the arrears and to seek advice.

Reasons for Decision

9. 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.
10. The Tribunal was satisfied that the arrears had increased from the date of application to £2780 and accordingly allowed the sum sought to be amended in terms of Rule 14A of the Regulations.
11. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicant had produced evidence of persistent non-payment of rent. The Respondent had not disputed the application. Further the Tribunal noted that the tenancy agreement provided that interest be paid on late rent at 8% and allowed interest at the rate of 8% 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 Applicant be granted with interest at 8%.

Decision

12. The Tribunal granted an order for payment of £2780 with interest at 8% per annum from the date of Order in favour of the Applicant.

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.

Shirley Evans

27 June 2024

Legal Chair

Date