



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/24/0981

Re: Property at 18 McKay Court, Leven, KY8 4FU (“the Property”)

Parties:

Kingdom Initiatives Limited, Saltire Centre, Pentland, Glenrothes, KY6 2DA (“the Applicant”)

Ms Bethany Fowler, 18 McKay Court, Leven, KY8 4FU (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Elizabeth Williams (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 SIX THOUSAND SIX HUNDRED AND SIXTY SIX POUNDS AND TWENTY PENCE (£6666.20) STERLING. 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 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 copy of a Private Residential Tenancy Agreement between the parties dated 30 September 2022, letters to the Respondent dated 23 February 2023, 14 June 2023, 31 January 2024 and 12 February 2024 and a rent statement.

3. On 21 March 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 12 June 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 3 July 2024. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 18 July 2024. This paperwork was served on the Respondent by William Wywalec, Sheriff Officer, Kirkcaldy on 13 June 2024 and the Execution of Service was received by the Tribunal administration.
5. On 28 June 2024 the Applicant’s solicitor forwarded an up to date rent statement to 4 June 2024 showing arrears of £6666.20 and a letter to the Respondent dated 28 June 2024. They sought to increase the sum of arrears in terms of Rule 14 A of the to £6666.20.
6. The Respondent did not lodge any written representations by 3 July 2024.

Case Management Discussion

7. The Tribunal proceeded with a CMD on 18 July 2024 by way of teleconference. Ms Callaghan from TC Young, 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 her absence. The action was heard together with an action for payment of rent arrears under reference FTS/HPC/EV/24/0980.
8. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 30 September 2022, letters to the Respondent dated 23 February 2023, 14 June 2023, 31 January 2024, 12 February 2024 and 28 June 2024 and the rent statement. The Tribunal considered these documents.
9. Ms Callaghan moved the Tribunal to grant an order for payment of £6666.20 plus interest from the date of decision of 8% per annum. She submitted in terms of Clause 8 of the tenancy agreement the Respondent had agreed to pay rent of £435.70 per month. Rent had increased to £448.77 per month. Arrears had increased from £4871.12 when the application was submitted and have now increased to £7114.97. She moved to allow the sum sought to be increased to £6666.20 as intimated in her email of 28 June 2024 and referred the Tribunal to the letter of intimation on the Respondent. Arrears had accrued over a number of years with the last successful direct debit payment being made in August 2023. All subsequent direct debits had been returned. No payments have been made since then.

10. She further submitted that in her client had sent a letter to the Respondent on 13 June 2024 and that they had also carried out a home visit on 25 June 2024. There had been no answer and a card had been left requesting the Respondent call them. The Respondent had however not contacted them. In June 2023 the Respondent met with the Applicant's Money Advice Team. She advised that she earned £660 per month. They had understood she had also applied for Universal Credit which would entitle her to a further £229 per month. They had also advised her to apply for Discretionary Housing Payment. She had agreed to pay £100 per month towards the arrears within two weeks and that she would be back in contact with the Money Advice Team at the end of June 2023. She did not contact them again and no payment towards the arrears was made. The Applicant had applied for an alternative payment arrangement in November 2023 and January 2024, but these had been refused.
11. On being questioned by the Tribunal regarding her motion for interest Ms Callaghan advised there was no contractual entitlement and that she was asking the Tribunal to use their discretion in terms of Rule 41A of the Regulations.

Reasons for Decision

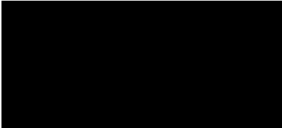
12. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent statement. Further the Tribunal considered the submissions made by Ms Callaghan.
13. The Tribunal was satisfied that the arrears had increased from the date of application and accordingly allowed the sum sought to be amended in terms of Rule 14A of the Regulations to £6666.20.
14. 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. The Tribunal was satisfied on the basis of the documents lodged, together with Ms Callaghan's submissions that an order for payment in favour of the Applicant should be made. However the Tribunal was not persuaded to grant interest in terms of Rule 41A, there being no contractual provision for interest.

Decision

15. The Tribunal granted an order for payment of £6666.20 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.



Legal Chair

18 July 2024

Date