



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/24/0526

Re: 6 Dunnikier Lane, Edinburgh, EH17 8YG ('the Property')

Parties:

Castle Rock Edinvar Housing Association Limited in Association with Places for People ('the Applicant')

Mr Caldwell, Patten and Prentice, Solicitors (The Applicant's Representative')

Graeme Love, 6 Dunnikier Lane, Edinburgh, EH17 8YG ('the Respondent')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Members: Jacqui Taylor (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The Tribunal determined that an order for payment would be issued requiring the Respondent to pay the Applicant the sum of £7149.27.

Background

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent in the sum of £6061.27 plus interest at the rate of 4% from the date of the hearing and expenses. The application was dated 31st January 2024.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicants were:

- 2.1** A copy of the Tenancy Agreement.
- 2.2** Notice of Rent Increase.
- 2.3** Rent Statements

3. By Notice of Acceptance by Lesley Ward, Convener of the Tribunal, dated 4th March 2024 she intimated that she had decided to refer the application (which application paperwork comprises documents received on 31st January 2024) to a Tribunal.

4. Amendment to the Application.

The Applicants' Representative sent the Tribunal administration an email dated 2nd July 2024 increasing the sum sought to £7345.03. An updated rent statement was provided for the period 28th November 2022 to July 2024 showing the outstanding rent arrears to be £6646.47.

5. Updated Rent Statement.

The Applicants' Representative sent the Tribunal administration an updated rent statement dated 1st August 2024 for the period 28th November 2022 to 31st August 2024 showing the outstanding rent arrears to be £7649.27.

6. Requirements of Section 111 of the Procedure Rules.

6.1 In connection with the requirements of section 111 the Tribunal determined that the application correctly detailed the requirements of section 111(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name and address of the Applicant.
- (ii) the name and address of the Respondent.
- (iii) the reason for making the application.

6.2 The Tribunal also confirmed that the application had been accompanied by the documents specified in **Section 111(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease, the notice of rent increase and the statements of rent arrears.

7. Case Management Discussion.

7.1 This case called for a conference call Case management Discussion (CMD) at 10.00am on 5th August 2024.

Mr Caldwell, the Applicant's Representative, attended the CMD.

The Respondent had been served with a letter advising him of the CMD by Dale Barrett, Sheriff Officer on 28th June 2024. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

7.2 Oral Submissions by Mr Caldwell.

Mr Caldwell advised the Tribunal that the rent due by the Respondent in terms of the Tenancy Agreement was £725 per month. The rent had been increased to £746.75 on 4th July 2023. The Respondent had not challenged that increase. The rent had also

been increased to £804.24 in July 2024. The rent arrears started early in the tenancy. Between January 2023 and October 2023 the Respondent only made one payment of £1000. He then paid monthly payments of £500. The Respondent is in regular contact with the Applicants as he phones them monthly but he has not provided them with an explanation for the rent arrears. He did mention that he was waiting for a divorce settlement to come through. The latest rent statement produced to the Tribunal shows rent arrears of £7649.27 but the statement does not include the most recent rent payment of £500. The rent arrears currently amount to £7149.27.

Mr Caldwell requested interest at 4% per annum from the date of the hearing. In connection with the application for expenses he accepted that the Respondent had not acted unreasonably and he acknowledged that the Tribunal would be unlikely to award expenses.

5. The Tribunal made the following findings in fact:

5.1 The Respondent was Tenant of the Property in terms of the lease between the parties.

5.2. The lease was a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

5.3. The Applicant was Landlord of the Property and heritable proprietor of the Property.

5.4 The title of the Property is part of Land Certificate title number MID228754.

5.5 The Tenancy commenced on 28th November 2022.

5.6 The rent due in terms of the tenancy was £725 per month, payable monthly in advance.

5.7 The rent increased to £746.75 with effect from 4th July 2023.

5.8 The rent increased to £804.24 with effect from 4th July 2024.

5.9 The outstanding rent due by the Respondent was £7149.27

6 Decision.

The Tribunal determined that the Respondent was due outstanding rent to the Applicants in the sum of £7149.27 and accordingly they issued an Order for Payment in this sum.

The Tribunal did not accept that interest was due. There was no provision for payment of interest in the tenancy agreement and there is no provision for judicial interest in terms of the Procedure Rules.

Procedure Rule 40 states that expenses are payable where a party has through their unreasonable behaviour in the conduct of a case put the other party to unnecessary or unreasonable expense. The Tribunal do not find that the Respondent has acted unreasonably and therefore do not find that the Respondent is liable for expenses.

8. 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.

Jacqui Taylor

Legal Member

5th August 2024