



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/24/0272

Re: Property at 25 Castle Heather Drive, Inverness, IV2 4EB (“the Property”)

Parties:

Highland Residential (Inverness) Limited, 98-104 High Street, Invergordon, IV18 0DL (“the Applicant”)

Mr Brandon Vanzetta, 62 Balloan Road, Inverness, IV2 4PR (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal 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 FIVE THOUSAND NINE HUNDRED AND SIXTY-ONE POUNDS AND FOURTEEN PENCE (£5961.14) 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 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 22 January 2020 and a rent statement.**

3. On 21 March 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 28 June 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 19 July 2024. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 6 August 2024. This paperwork was served on the Respondent by Robert White, Sheriff Officer, Inverness on 2 July 2024 and the Execution of Service was received by the Tribunal administration.
5. On 16 July 2024 the Applicant's solicitor forwarded a rent statement to 24 April 2023 showing arrears of £5961.14.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 6 August 2024 by way of teleconference. Ms Dempster from Harper MacLeod, 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.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 22 January 2020 and the rent statement to 24 April 2023. The Tribunal considered these documents.
8. Ms Dempster moved the Tribunal to grant a payment order for £5961.14 plus interest at 8%, The last payment received from the Respondent was for £447 on 24 April 2023. The Respondent left the Property in February 2023 but has failed to clear the substantial arrears.

Findings in Fact

9. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement in relation to the Property on 22 January 2020. In terms of Clause 4 of the tenancy agreement the Respondent agreed to pay the Applicant a calendar monthly rent of £447.

10. The tenancy ended in or about February 2023.

11. The Respondent had fallen into arrears of rent. The last payment to account was of £447 on 24 April 2024. Arrears remain and currently amount to £5961.14

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 Dempster.

13. 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 did not provide for interest on the late payment of rent. The Tribunal was not inclined to award 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 Dempster's submissions that an order for payment in favour of the Applicant be granted with interest at 8%.

Decision

14. The Tribunal granted an order for payment of £5961.14.

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.

S. Evans

Legal Member

6 August 2024

Date