



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/2046

Re: Property at Flat 3F2, 50 Hamilton Place, Edinburgh, EH3 5AX (“the Property”)

Parties:

Scottish Midland Co-operative Society Ltd, Hillwood House, 2 Harvest Drive, Edinburgh, EH28 8QJ (“the Applicant”)

Mr Douglas MacFarlane, 2 Combfoot Cottages, Mid Calder, Livingston, EH53 0AB (“the Respondent”)

Tribunal Members:

Ruth O'Hare (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 in the sum of Five thousand two hundred and twenty five pounds and thirty one pence (£5,225.31) Sterling together with interest at the rate of 4% above the Bank of Scotland base lending rate per annum from the date of decision until payment

Background

- 1 By application to the Tribunal dated 3 May 2024 the Applicant sought a payment order against the Respondent under Rule 111 of The First-tier for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Procedure Rules”) in respect of unpaid rent arrears.
- 2 By Notice of Acceptance of Application dated 27th June 2024 a Legal Member of the Tribunal with delegated powers from the Chamber President intimated that there were no grounds to reject the application. The application paperwork was served upon the Respondent by Sheriff Officers together with notification of the date and time of the Case Management Discussion (“CMD”).

The Case Management Discussion

- 3 The CMD took place on 12 September 2024 by teleconference. The Applicant was represented by Mr Stewart of Gilson Gray Solicitors. The Respondent was also in attendance.
- 4 Mr Gray confirmed that the Applicant sought an order for payment in the sum of £5,225.31. The tenancy agreement also provided for interest at the rate of four per cent per annum above the Bank of Scotland Base Lending rate on any unpaid rent.
- 5 Mr MacFarlane explained that he could not pay the sum in full at this time, however he had sought support from the Step Change charity with a view to putting a repayment plan in place. He did not dispute the arrears were due.

Findings in Fact

- 6 The Applicant and the Respondent entered into a tenancy agreement which commenced on 28th October 1996.
- 7 In terms of Clause 3 of the said tenancy agreement the Respondent undertook to pay rent at the rate of £210 per month.
- 8 In terms of Clause 3 of the said tenancy agreement the Respondent undertook to pay interest at the rate of four per cent per annum above Bank of Scotland Base Lending rate on any unpaid rent.
- 9 The rent was increased to £805.60 on or around 28 January 2024.
- 10 The tenancy between the parties terminated on 17 March 2024.
- 11 As at the date of termination rent arrears of £5,225.31 were outstanding.
- 12 Despite repeated requests the Respondent has refused or delayed to make payment of the sum due.

Reasons for Decision

- 13 The Tribunal took into account the application paperwork and verbal submissions at the CMD and considered it had sufficient information upon which to make a decision on the application. There were no issues in dispute, with the Respondent having stated that he accepted the arrears were due, and therefore no requirement for a hearing to be fixed.
- 14 The Tribunal was satisfied based on its findings in fact that the Respondent was liable to pay the Applicant the sum of £5,225.31 together with the contractual interest under the terms of the tenancy agreement between the parties. The

Tribunal therefore made an order for payment in the sum of £5,225.31 with interest at the rate of 4% per annum above the Bank of Scotland Base Lending rate from the date of decision 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.

R O'Hare

12 September 2024

Legal Member/Chair

Date