



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/4348

Re: Property at 23 Binnie Street, Gourock, PA19 1JT (“the Property”)

Parties:

Mr Dario Antonino Cacioppo, 7 Gleneagles Drive, Gourock, PA19 1HX (“the Applicant”)

Mr Andrew Smith, 64 Ailsa Road, Gourock, Inverclyde, PA19 1DY (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £2270.00 plus interest at the rate of 8% per annum from the date of the decision until payment.

Background

1. By application dated 5 December 2023 the Applicant’s representative, Mr Gioacchino Cacioppo applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondents’ tenancy of the property. The Applicant’s representative submitted a copy of the tenancy agreement together with a rent statement, bank statements and other documents in support of the application.
2. Following further correspondence between the Applicants and the Tribunal administration the sum claimed was increased to £2270.00.

3. By Notice of Acceptance dated 7 March 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
4. A CMD assigned to take place on 13 May 2024 was postponed at the request of the Applicant’s representative and a further CMD assigned.
5. Intimation of the CMD was served on the Respondent by Sheriff Officers on 13 August 2024.

The Case Management Discussion

6. A CMD was held by teleconference on 27 August 2024. The Applicant was represented by Mr Gioacchino Cacioppo. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in his absence.
7. Mr Cacioppo advised the Tribunal that the rent arrears as at 6 February 2024 amounted to £2270.00 in addition to previous rent arrears for which the Applicant had obtained orders for payment from earlier Tribunals. Mr Cacioppo explained that the total amount due by the Respondent to the Applicant was nearly £10000.00. Mr Cacioppo confirmed that the Respondent had vacated the property at the beginning of 2024 but he did not know the exact date as the Respondent had not communicated with the Applicant. The Tribunal queried if the Respondent’s deposit of £500.00 had been paid to the Applicant and Mr Cacioppo confirmed that it had and had been applied to reduce the earlier awards of rent arrears and that the sum claimed remained at £2270.00 plus interest at 8% per annum. The Tribunal noted that the Respondent had agreed in terms of Clause 19.2 of the tenancy agreement to pay interest at the annual rate of 8% on any payments including rent that were due to the Applicant. Mr Cacioppo asked the Tribunal to grant the order sought.

Findings in Fact

8. The Respondent owed additional rent of £2270.00 as at 6 February 2023 and this amount was still outstanding at the date of the CMD.
9. The Respondent was contractually bound to pay interest at the annual rate of 8% in terms of Clause 19.2 of the tenancy agreement entered into by the parties.

Reasons for Decision

10. The Tribunal was satisfied from the written representations and documents submitted by the Applicant’s representatives together with the oral

submissions that the Applicant was entitled to an order for payment by the Respondent in the sum of £2270.00 the Respondent's deposit of £500.00 having been applied to reduce earlier debt due by him to the Applicant. The Tribunal was also satisfied that the Respondent had agreed to pay interest at the annual rate of 8% in the tenancy agreement and in the circumstances the Tribunal determined to award interest at the contractual rate of 8%

Decision

11. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £2270.00 plus interest at the rate of 8% per annum from the date of the 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.

Graham Harding

Legal Member/Chair: Graham Harding

Date: 27 August 2024