



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/24/1383

Re: Property at Flat 6, 1 Forganhall Court, Falkirk, FK2 7ZX (“the Property”)

Parties:

LAR Housing Trust, Buchan House, Enterprise Way, Fife, Dunfermline, KY11 8PL (“the Applicant”)

Mrs Lauren Gardner, 37 Montrose Avenue, Glasgow, G32 8JP (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent in the sum of £464.35 should be made in favour of the Applicant.

Background

1. By application received on 22 March 2024, the Applicant sought a payment order against the Respondent in the sum of £2,132.60 in respect of rent arrears. Supporting documentation was submitted with the application, including a copy of the tenancy agreement and a rent statement. An eviction application was lodged at the same time and was conjoined with this application but was subsequently withdrawn by the Applicant as the Respondent had vacated.
2. Following initial procedure, the application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9

of the Regulations on 18 April 2024. Notification of the application was made to the Respondent at her new address, as above, by Sheriff Officer on 29 July 2024, together with the date, time and arrangements for a Case Management Discussion (“CMD”). No written representations were lodged by the Respondent prior to the CMD.

Case Management Discussion

1. A Case Management Discussion (“CMD”) took place by telephone conference call on 27 August 2024 at 10am, attended by Ms Jacky MacDonald, Operations Manager of the Applicant, who was represented by Ms Simone Callaghan of TC Young, solicitors. The commencement of the CMD was delayed for 5 minutes to allow an opportunity for the Respondent to join late but she did not do so.
2. Following introductions and introductory remarks by the Legal Member, Ms Callaghan advised that this payment order was in respect of rent arrears owing by the former tenant (Respondent) whose tenancy ended on 22 April 2024. The initial rent was £504.70 per calendar month which had been increased to £519.18 as from 1 August 2023. The correct process for the rent increase had been followed and Ms Callaghan made reference to the supporting documentation lodged with the application in this regard.
3. Ms Callaghan explained that the reason for the rent arrears was not known as such, although she was aware that the Respondent had a partner who was supposed to be paying weekly, that the Respondent was applying for, or in receipt of, Universal Credit, was not working and was three months pregnant in January 2024. Payments had been received into the rent account since the rent statement was produced and the deposit of £504.70 had also been recovered and put towards the arrears, which resulted in the arrears being reduced to £464.35. This was the amount of the order now sought. Interest thereon at the judicial rate of 8% was also sought in terms of Rule 41A.
4. The Tribunal Members discussed briefly and confirmed that a payment order of £464.35 would be granted and that, although the Tribunal was persuaded to award interest thereon, this would be at the rate of 5% rather than the 8% sought. Parties were thanked for their attendance.

Findings in Fact

1. The Applicant is the owner and the landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 14 December 2022.
3. The monthly rent in terms of the tenancy was originally £504.70 which had been increased to £519.18 as from 1 August 2023.

4. There was a background of rent arrears, with arrears amounting to £2,132.60 as at 1 March 2024, prior to the action being raised.
5. The Respondent has moved out of the Property, with the tenancy having terminated as at 22 April 2024.
6. Payments from the Respondent's Universal Credit have been received since the supporting rent statement was produced, reducing the balance owing.
7. The tenancy deposit of £504.70 has also been recovered by the Applicant, following the ending of the tenancy, and has been applied to the rent arrears.
8. The balance outstanding now is £464.35.
9. The Applicant had contacted the Respondent previously regarding the rent arrears and the Respondent had been called upon to make payment of the amount owing.
10. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this Application.
11. The Respondent did not attend the CMD.
12. The sum of £464.35 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy in terms of this application and has not been paid by the Respondent.

Reasons for Decision

1. The Tribunal considered all of the background papers, including the application and supporting documentation and the oral submissions made on behalf of the Applicant at the CMD. The Tribunal noted that no representations had been made by the Respondent and that she did not attend the CMD, having been properly and timeously notified of same by way of Sheriff Officer. The Tribunal was satisfied that the application was in order.
2. The Tribunal considered that there was nothing to contradict the information on behalf of the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Tribunal was satisfied that the Respondent was in arrears with her rent when she had vacated the Property and that the reduced sum of £464.35 was still due and resting owing by her. The Tribunal was satisfied that, in the circumstances, a payment order in terms of the amended application could properly be made at the CMD.
3. The Tribunal considered the request on behalf of the Applicant to apply interest on the principal sum from the date of the order until payment at the rate of 8% in terms of Rule 41A of the Regulations on the basis that 8% is the judicial rate of interest. Whilst the Tribunal considered it reasonable to

exercise its discretion and apply interest in the circumstances of this case, the Tribunal considered the rate should be 5% per annum, given current Bank of England base rates.

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.

N Weir

Legal Member/Chair

27 August 2024
Date