



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/24/1902

Re: Property at 65 Raeburn Crescent, Hamilton, ML3 9QD (“the Property”)

Parties:

Dr Sonali D'Cruz, 14 Twynersh Avenue, Chertsey, KT16 9DE (“the Applicant”)

Natasha McGarvey, 65 Raeburn Crescent, Hamilton, ML3 9QD (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for case management discussion ('CMD') at 10am on 3 October 2024, by teleconference. The Applicant was represented on the call by Mr Jarvie of Bannatyne Kirkwood France & Co., solicitors. The Respondent was not on the call or represented. The commencement of the CMD was delayed by 10 minutes in case she was experiencing any technical difficulty; but there remained no contact from her.

Notice of the CMD and the application papers had been served on the Respondent by sheriff officers on 26 August 2024. In this regard, the Tribunal noted that the certificate of service stated that service had been effected on the Respondent at, "65 Raeburn Crescent, Motherwell, ML3 9QD." On inquiry by the Tribunal Administration, the sheriff officers confirmed that this was a misprint and should have read, "65 Raeburn Crescent, Hamilton, ML3 9QD." That having been confirmed, the Tribunal was satisfied that the Respondent was aware of the CMD and had chosen not to defend the application.

- Findings in Fact

The Tribunal considered the following unopposed facts, as set out in the application, to be relevant to its decision:

1. The Applicant lets the Property to the Respondent in terms of a private residential tenancy agreement with a start date of 2 September 2021.
2. In terms of the tenancy agreement, rent of £495 is due on the first day of each month.
3. The tenancy agreement also specifies that interest at a rate of 8% per annum would be chargeable on any outstanding sums.
4. As of the date of the CMD, the Respondent was in arrears of £3,898.87.

- Reasons for Decision

5. As a preliminary matter, an application had been made to amend the sum sought in this application to £3,898.87. This had been sent by the Applicant's agents to the Tribunal administration, and copied to the email address set out in the tenancy agreement as the one to be used to contact the Respondent, on 19 September 2024. The Respondent had not responded to object to the application. The Tribunal considered that the application had been correctly

served and that the lack of response could be taken as consent to the application. It therefore granted it as unopposed.

6. Thereafter, the Tribunal granted the order as sought, applying an interest rate of 8% to the award from the date of the order until payment. The Respondent owes the sum sought, as amended, so an order for payment of that amount should be made. The interest rate is as set out in the tenancy agreement, and the Tribunal considered it fair on that basis to apply it to the order.

- Decision

Order made for payment by the Respondent to the Applicant of the sum of THREE THOUSAND, EIGHT HUNDRED AND NINETY-EIGHT POUNDS AND EIGHTY-SEVEN PENCE STERLING (£3,898.87), with interest thereon at the rate of 8% per annum running 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.

Nairn Young

Legal Member/Chair

Date 3/10/2024