



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/24/2693

Re: Property at 87 Low Craigends, Kilsyth, G65 0NZ (“the Property”)

Parties:

Sarah Addison (nee Cockburn), 16 Symons Close, Hartburn, Stockton on Tees, TS18 5QB (“the Applicant”)

John Sneddon, 87 Low Craigends, Kilsyth, G65 0NZ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Two thousand nine hundred pounds (£2900) together with interest at the rate of 4.75% from the date of this decision until payment.

Background

1. By application to the Tribunal the Applicant sought an order for payment against the Respondent for unpaid rent in the sum of £1450. In support of the application the Applicant provided a private residential tenancy agreement between the parties dated 31 March 2023 and a rent statement.
2. By Notice of Acceptance of Application a Legal Member of the Tribunal with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. The application was therefore referred to a Case Management Discussion (“CMD”) on 18 November 2024, to take place by teleconference. Notification was sent to the parties in accordance with Rule 17(2) of the Rules of Procedure. Said notification together with a copy of the application paperwork was served upon the Respondent by Sheriff Officers on

15 October 2024. Both parties were invited to make written representations in advance of the CMD.

3. On 4 November 2024 the Applicant submitted a request by email to amend the sum sought to £2900 under Rule 14A of the Rules, which was supported by a rent statement. The request was intimated to the Respondent.
4. No written representations were received from the Respondent in response to the application, or the request for amendment.

Case Management Discussion

5. The CMD took place on 18 November 2024 by teleconference. The Applicant was represented by Mr Jarvie, Solicitor of Bannatyne Kirkwood France and Co. The Respondent did not attend. The Tribunal noted that he had received notification of the CMD in accordance with Rule 17(2) of the Rules personally by Sheriff Officers, and had been given the opportunity to submit written representations and participate in the CMD. The Tribunal therefore determined to proceed in his absence.
6. The Tribunal asked Mr Jarvie for his submissions on the application. Mr Jarvie confirmed that the Applicant sought an order for payment in the amended sum of £2900 together with interest at the current base rate of 4.75% per annum. Mr Jarvie acknowledged that there was no reference to interest in the tenancy agreement however asked the Tribunal to exercise its discretion in this regard. Mr Jarvie confirmed that no payments, or proposals for payment, had been received from the Respondent towards the sum due.
7. The Tribunal adjourned to deliberate, during which time the parties left the call, before resuming the Case Management Discussion and confirming its decision.

Findings in Fact

8. The Applicant let the property to the Respondent under a tenancy agreement which commenced on 31 March 2023.
9. The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
10. In terms of Clause 8 of the said tenancy agreement the Respondent undertook to make payment of rent at the rate of £550 per calendar month.
11. As at the date of this decision arrears in the sum of £2900 are outstanding.
12. Despite repeated requests the Respondent has refused or delayed in making payment of the sum due.

Reasons for Decision

13. The Tribunal determined that it had sufficient information upon which to make a decision at the CMD and that to do so would not be prejudicial to the parties. The Respondent had made no representations regarding the application and had not

participated in the CMD. Accordingly the Tribunal did not identify any facts in dispute, nor any issues to be resolved, that would require 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 £2900 under the terms of the tenancy agreement before it. The Applicant's request to amend the sum sought had been made timeously under Rule 14A of the Rules, therefore the Tribunal was satisfied that it could make an order in the increased sum. The Respondent had not put forward any representations to contradict the evidence produced by the Applicant, and had not participated in the CMD.
15. The Tribunal therefore made an order for payment in the sum of £2900. The Tribunal further determined that it would be reasonable to exercise its discretion in the absence of any reference to interest in the tenancy agreement between the parties and awarded interest at the rate of 4.75% per annum from the date of this decision until payment.
16. The decision of the Tribunal was unanimous.

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

18 November 2024

Legal Member/Chair

Date
