



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPCV/24/2005

Re: 107 Willow Drive, Johnstone, PA5 0BZ ('the Property')

Parties:

Mijak Limited, 54 Cowgate, Kirkintilloch, Glasgow, G66 1HN ("the Applicant")

Alexandra Wooley, Bannatyne, Kirkwood France & Co, Solicitors ('The Applicant's Representative')

Megan Macnab residing at 107 Willow Drive, Johnstone, PA5 0BZ ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Members: Jacqui Taylor (Legal Member) and Nick Allan (Ordinary Member)

Decision

The Tribunal determined that an order for payment would be issued requiring the Respondent to pay the Applicant the sum of £3200.

Background

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent in the sum of £2300 plus interest from the date of the decision. The application was dated 30th April 2024.

1.2 Documents lodged with the Tribunal were:-

- Private Residential Tenancy Agreement between the parties dated 21st July 2023. The commencement date of the tenancy was 21st July 2023. The rent was £800 per calendar month.
- A rent statement for the period 21st June 2023 to 21st April 2024 showing £2300 rent arrears.
- Copies of Pre action letters/ emails sent to the Respondent dated 12th September 2023, 27th December 2023, 3rd January 2024,

2. By Notice of Acceptance by **Josephine Bonnar**, Convener of the Tribunal, dated 21st May 2024 she intimated that she had decided to refer the application (which application paperwork comprises documents received on 1st May 2024) to a Tribunal.

3. Application to amend the application.

3.1 The Applicant's Representative sent the Tribunal an application to amend the application dated 27th September 2024, which was in the following terms:

'As at 27 September 2024 the level of rent arrears has increased to £3,200. An updated rent schedule is attached. Accordingly, the amendment is sought to reflect the current level of arrears. In the circumstances, the Applicant seeks to amend the application in accordance with Rule 14A. Amendment under Rule 14A In Form F, Section 5 (b), Paper Apart, delete "The outstanding sum is £2,300" and insert "The outstanding sum is £3,200." In Form F, Section 5 (c), delete '£2,300 with interest thereon from the date of decision' and insert '£3,200 with interest thereon from the date of decision.'

3.2 The Applicant's Representative lodged an up dated rent statement for the period 21st June 2023 to 21st September 2024 which showed rent arrears of £3200.

4. Written Representations

The Respondent did not provide any written representations.

5. Case Management Discussion

This case called for a conference call Case management Discussion (CMD) at 14.00 on 14th October 2024.

Alexandra Wooley, the Applicant's Representative attended the CMD.

The Respondent did not attend and was not represented. The Tribunal clerk attempted to contact the Respondent by telephone but she did not answer his call.

The Respondent had been served with letters advising her of the CMD by Paul Miller, Sheriff Officer on 9th September 2024. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

Alexandra Wooley advised that the rent arrears amounted to £3200 and she referred the Tribunal to the updated rent statement that had been produced. She sought a payment order in the sum of £3200 plus non contractual interest at the rate of 3% above the base rate from the date of the hearing. She explained that it was reasonable for interest to be payable due to the amount of the arrears and the length of time they have been due by the Respondent.

6. Decision

6.1. Requirements of Section 109 of the Procedure Rules.

The Tribunal confirmed that the application correctly detailed the requirements of section 111(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name, address and registration number of the Landlord.
- (ii) the name and address of the Tenant.
- (iii) the reason for making the application.

The Tribunal also confirmed that the application had been accompanied by the documents specified in **Section 111(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statements of rent arrears.

6.2 The Tribunal made the following findings in fact:

6.2.1 The Respondent is Tenant of the Property in terms of the lease between the parties dated 21st July 2023.

6.2.2 The lease is a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

6.2.3 The Applicant, is Landlord of the Property.

6.2.4 The Applicant is the heritable proprietor of the Property. The Tribunal had a copy of title sheet REN10317 which confirmed that **Mijak Limited** is heritable proprietor of the Property.

6.2.5 The rent detailed in the tenancy agreement was £800 per calendar month, payable in advance.

6.2.6 The Notice to Leave was dated 1st February 2024 and it was emailed to the Respondent on the same day.

6.2.7 The rent due by the Respondent as at 14th October 2024 was £3200.

7. Decision.

The Tribunal determined that the Respondent was due outstanding rent to the Applicant in the sum of £3200 and accordingly they issued an Order for Payment in this sum.

The Tribunal did not accept that interest was due. There was no provision for payment of interest in the tenancy agreement and there is no provision for judicial interest in terms of the Procedure Rules.

8. 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.

J Taylor

Legal Member

17th October 2024