



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/24/3625

Re: Property at 4 Inverewe Place, Dunfermline, KY11 8FH (“the Property”)

Parties:

Mr Clive Guyton, Mrs Elaine Guyton, 8 Milesmark Court, Dunfermline (“the Applicant”)

Mr Calumn Johnston, 4 Inverewe Place, Dunfermline, KY11 8FH (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application could be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £5,391. The Applicant’s request for interest on that sum was refused.

Background

1. By application, dated 25 July 2024, the Applicant sought an Order for Payment in respect of rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £3,377.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 1 August 2019 at a monthly rent of £550 and a Rent Statement showing arrears as at the date of the application of £3,377. The Applicant’s solicitors subsequently provided an updated Rent Statement showing arrears as at 1 September 2024 of £5,391 and sought to amend the application accordingly. The updated Rent Statement was cross-copied by the Tribunal to the Respondent.

3. On 2 September 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 23 September 2024. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

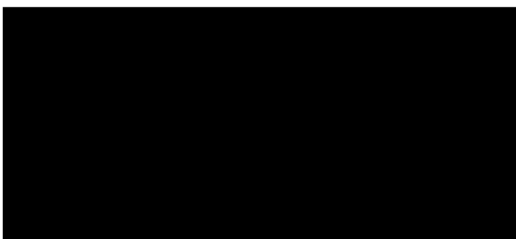
4. A Case Management Discussion was held by means of a telephone conference call on the morning of 10 October 2024. The Applicant was present. The Respondent was not present or represented.
5. The Applicant told the Tribunal that no rent had been paid since 3 May 2024. The rent due on 1 October 2024 had not been paid and he sought leave to increase the amount sought to £5,957.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. The Tribunal was satisfied that the sum sought by way of rent, as amended to £5,391, had become lawfully due by the Respondent to the Applicant. The Tribunal was not, however, prepared to increase that sum to reflect the non-payment of the rent due on 1 October 2024, as there was no evidence that the Respondent had been notified that the arrears were now £5,957.
8. The Tribunal refused the Applicant's request for interest at 8% per annum from the date of the Tribunal's Order to the date of payment. The Tenancy Agreement does not make provision for interest on rent paid late and the Tribunal was not persuaded, on the basis of the information before it, to exercise its discretionary power to award interest in terms of Rule 41A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

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.



10 October 2024
Date