

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/3401

Re: Property at Flat 4, 4 Seacole Square, Edinburgh, EH16 4ZH (“the Property”)

Parties:

PFPC MMR 1 LP, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mrs Lisa Winters, Mark Winters, Flat 4, 4 Seacole Square, Edinburgh, EH16 4ZH (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Nick Allan (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondents in favour of the Applicant in the sum of £9,144.45 with interest at the rate of 4% from today’s date, until payment.

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant sought an order for payment in the sum of £7,368.60 in respect of arrears said to have been incurred by the Respondents.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 7 November 2024 informing both parties that a CMD had been assigned for 17 December 2024 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make

a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair.

4. On 11 November 2024, the Tribunal received an email from the Applicant's representative, attaching an updated rent statement. A copy had been sent to the Respondents by email.
5. On 27 November 2024, the Tribunal received an email from the Second Respondent acknowledging the forthcoming CMD and indicating an intention to pay between £1,100 and £1,250 per month towards rent and arrears.
6. On 12 December 2024, the Tribunal received a further updated rent statement from the Applicant's representative and a copy had been sent to the Respondents by email.

The case management discussion – 17 December 2024

7. This case called alongside a related case which proceeds under chamber reference FTS/HPC/EV/24/3396. The CMD took place by conference call. The Applicant was represented by Mr K. Caldwell, solicitor. The Respondents did not join the call, and the discussion proceeded in their absence.
8. The Applicant's representative explained that the updated rent statement lodged on 12 December 2024 reflects the Respondents' most recent payment. There has been no arrangement agreed to repay the arrears. The Applicant has no information about why the arrears started to accrue more than 2 years ago. The current balance of arrears is £9,144.45. The Applicant's representative moved to amend the sum sought to £9,144.45 and sought an order for payment in that sum, along with interest at the rate of 4% per annum.
9. On the basis of the information before the Tribunal, it appeared that the Respondents accepted that the sum sought by the Applicant is due.

Findings in Fact

10. The parties entered into a private residential tenancy which commenced 28 February 2022.
11. The contractual monthly rent was £875.17.
12. The Respondents owes the Applicant £9,144.45 in respect of rent arrears.

Reason for Decision

13. The Tribunal proceeded on the basis of the documents lodged, and the submissions made at the CMD. The email from the Second Respondent gave no indication that there was any dispute over the sum sought. In the absence of evidence to the contrary, the Tribunal was satisfied that the rent statement was accurate. The Tribunal was satisfied that Respondents owe the sum of £9,144.45. Accordingly, an order for payment in that sum was granted.
14. The Tribunal observed that the debt due by the Respondents has been outstanding for a significant period of time. Although there was no contractual provision for interest, the Tribunal exercised its discretion in terms of rule 41A and awarded interest on the sum due at the rate of 4% per annum from today's date 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.

N. Irvine

Legal Member/Chair

Date

17 December 2024