



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/24/3339

Re: Property at 188 Foundry, Winterthur Lane, Dunfermline, Fife, KY12 9GB (“the Property”)

Parties:

Kingdom Initiatives Limited, Saltire Centre, Pentland Drive, Glenrothes, KY6 2DA (“the Applicant”)

Ms Kirsten Kirk, 188 Foundry, Winterthur Lane, Dunfermline, Fife, KY12 9GB (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of SIX THOUSAND SEVEN HUNDRED AND NINETY FOUR POUNDS AND EIGHTY THREE PENCE (£6794.83) STERLING with interest at 8% per annum from the date of the order until payment. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an action for recovery of rent arrears and interest raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 14 November 2022, a rent statement to 1 June 2024 showing arrears of £3908.73 and a rent increase notice dated 25 April 2023.
3. On 12 August 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 7 November 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 28 November 2024. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 17 December 2024. This paperwork was served on the Respondent by Stephen McCallum, Sheriff Officer, Kirkcaldy on 8 November 2024 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not make any representations.
6. On 13 November 2024 the Applicant's solicitor requested that the application be amended in relation to the sum claimed from £3908.73 to £6794.83 in terms of Rule 14A of the Regulations. A copy letter dated 13 November 2024 to the Respondent was attached to the application to increase the sum of arrears.
7. On 13 December 2024 the Applicant's solicitor lodged an up to date rent statement to 1 December 2024 showing arrears of £7380.73, a letter dated 26 April 2024 with a rent increase notice.

Case Management Discussion

8. The Tribunal proceeded with a CMD on 17 December 2024 by way of teleconference. Ms Brechany from T C Young, solicitors appeared for the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow her plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence. The case was heard together with a case for arrears under case reference number FTS/HPC/EV/24/3339.
9. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 14 November 2022, the rent statements to 1 June and 1 December 2024, the rent increase notices dated 25 April 2023

and 26 April 2024 and the letter regarding the increase in the sum sought dated 13 November 2024. The Tribunal considered these documents.

10. Ms Brechany moved the Tribunal to allow the sum sought to be increased to £6794.83 with reference to her email of 13 November 2024. This had been intimated on the Respondent. Arrears had increased from £3908.73 when the application was submitted and have now increased to £7380.73 as at 1 December 2024. She referred to Clause 8 of the tenancy agreement in terms of which the Respondent was obliged to pay monthly rent of £585.90 in terms of the rent increase notices.
11. With reference to the rent statement Ms Brechany submitted that arrears started to significantly increase from February 2023. The last payment was of £526.70 on 17 May 2024. The Applicant understood the Respondent was employed as a home carer. The Applicant understood that she may have been entitled to Universal Credit but as the Respondent had never engaged with them they could not get her to complete the necessary forms for discretionary housing payment.
12. Finally, Ms Brechany moved the Tribunal to award interest at the judicial rate of 8% or any other rate the Tribunal considered reasonable in terms of Rule 41A of the Regulations.

Reasons for Decision

13. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent statements. Further the Tribunal considered the submissions made by Ms Brechany.
14. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicant had produced evidence of persistent non-payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Ms Brechany's submissions that an order for payment in favour of the Applicant be granted in the increased sum together with interest at 8% from the date of the Order.

Decision

15. The Tribunal granted an order for payment of £6794.83 with interest at 8% per annum from the date of Order in favour of the Applicant.

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.

Shirley Evans

17 December 2024

Legal Member

Date