



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/24/3295

Re: Property at 109 Cedar Drive, East Kilbride, Glasgow, G75 9HZ (“the Property”)

Parties:

Mr George McCarroll, 4468 Caminito Pedernal, San Diego, California, 92117, United States (“the Applicant”)

Ms Dora Petyik, Mr Seide Mahmood Hosseini Haghighi, 109 Cedar Drive, East Kilbride, Glasgow, G75 9HZ (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £10366.03 be granted against the Respondents in favour of the Applicant plus interest at the rate of 8% per annum from the date of the decision until payment.

Background

1. An application was submitted dated 19 July 2024 in terms of Rule 111 of the Chamber Rules being an application for civil proceedings in relation to matters associated with tenancies and occupancy agreements under...the Private Housing (Tenancies) (Scotland) Act 2016. The application sought a payment order in the sum of £10366.03 in respect of rent arrears *“along with any further sums due from the date of this application to the date an order is made, seeks interest at 8% from the date of the decision or any such rate the tribunal considers appropriate in accordance with Rule 41A”*.
2. Along with the application form were lodged the following:
 - Copy tenancy agreement
 - Copy Rent statement

3. The application was accepted and assigned to a case management discussion by teleconference today.
4. Notification of the application, documents and details of the case management discussion were served on the Respondents.
5. The notification letter served on the Respondents advised:
"The Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. If you do not take part in the case management discussion, this will not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair."
6. The Respondents were asked to submit written representations by 25 November 2024. No written representations have been received.

The Case Management Discussion

7. The case management discussion took place today by teleconference. Ms Simone Callaghan, paralegal, TC Young attended on behalf of the Applicant. There was no attendance by, or on behalf of, the Respondents. The Tribunal queried two entries on the rent statement, namely the rent figure of £86.03 attributed to 5 March to 5 April 2020 and the figure of £380 attributed to 5 June to 5 July 2020. The Applicant's legal representative had no further information as to why these figures were less than usual but, as these discrepancies were in the tenants' favour, the lack of further information did not preclude the Tribunal from making a decision. The Applicant's legal representative moved the Tribunal to make an order for the sum of £10366.03 plus interest at the rate of 8% per annum. Her position was that, despite there being no contractual right to interest, the sum could be sought in terms of Rule 41A (2) (b) of the Chamber Rules.

Findings in Fact

8. The Tribunal made the following findings in fact:
 - I. Parties entered into a private residential tenancy agreement from 5 July 2019
 - II. In terms of this tenancy agreement, rent was due to be paid at the rate of £450 per calendar month
 - III. The Respondent were in arrears with their rent payments in the sum of £10366.03 as at the date of the application being submitted.

Reasons for Decision

9. The Tribunal took into account all the written documents, evidence and submissions before it along with the oral submissions of the Applicant's legal representative today. There was nothing before the Tribunal challenging the position put forward by the Applicant's legal representative. Rule 41A(2)(b) afforded a power for the Tribunal to award interest in the absence of a provision in the tenancy agreement.

Decision

10. The Tribunal decided to issue a payment order in favour of the Applicant against the Respondents in the sum of £10366.03 plus interest at the rate of 8% 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.

Anne Mathie

13 December 2024

Legal Member/Chair

Date