



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 (“the 2014 Act”) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/CV/23/3157

Property: 345/1 Gorgie Road, Edinburgh, EH11 2RG (“the Property”)

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

Wheatley Housing Group Litigation Team, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant’s Representative”)

Ms Vanessa Erskine, 345/1 Gorgie Road, Edinburgh, EH11 2RG (“the Respondent”)

Tribunal Member:

Ms Susanne L. M. Tanner K.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay the Applicant the sum of FOUR THOUSAND TWO HUNDRED AND TWENTY FOUR POUNDS AND FORTY PENCE (£4224.40) STERLING; and made an Order for Payment in respect of the said sum.

Reasons

Procedural Background

1. The Applicant’s Representative made an application to the tribunal on 8 September 2023 in terms of Section 16 of the Housing (Scotland) Act 2014 and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”).

2. The Applicant sought an order for payment against the Respondent in respect of rent arrears of £8484.54, plus interest from the date of the order. A separate application for an order for possession was also made.
3. The Applicant's Representative lodged supporting documents with the Application as follows:
 - 3.1. Copy of the tenancy agreement;
 - 3.2. Copy of the notice by the landlord of intention to raise proceedings for possession of a house let on an assured tenancy (AT6)
 - 3.3. Copy of the notice given the local authority as required under section 19A(1) of the 1988 Act (Section 11 notice);
 - 3.4. Copy rent account statement; and
 - 3.5. Copy letters dated 11 January 2023 and 23 March 2023.
4. On 7 November 2023, the Application was accepted for determination by a tribunal. Both parties were notified by letters dated 25 February 2020 of the date, time and place of Case Management Discussion ("CMD") in relation to the Application on 6 February 2024. The Respondent was invited to make written representations in response to the Application. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. The parties were also advised that if they do not attend the CMD this will not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Application paperwork and notification was served on the Respondent by Sheriff Officers.
5. Two Case Management Discussions ("CMDs") took place on 6 February 2024 and 18 June 2024 by teleconference in this and the related eviction case (EV/3155). Mr David Adams from the Applicant's Representative attended the first CMD and the Respondent did not, so it proceeded in her absence. Mr Adams did not attend the second CMD and the Respondent attended, and it proceeded in Mr Adam's absence. Notes on the CMDs were sent to both parties, which are referred to for the discussion and outcomes on both dates. The CMD was adjourned to a further date.
6. The tribunal issued Directions to the parties. The Applicant's Representative was requested by the tribunal to lodge copy correspondence between them and the Respondent from September 2023 to date, in particular relating to payment arrangements with the Respondent for rent arrears; and to allow the Respondent to seek advice and representation (if wished) and to provide information about her

personal circumstances in relation to reasonableness of making an order for possession.

7. The Applicant's Representative produced the evidence requested in the Direction.
8. The third CMD was postponed on the unopposed application of the Applicant's Representative and was re-scheduled for 15 January 2025 at 1000h by teleconference. Both parties were notified about the date, time and joining instructions for the third CMD.
9. On 7 January 2025, the Applicant's Representative lodged further supporting evidence in the civil claim, including an updated statement of rent arrears. Mr Adams intimated that he wished to amend the Application to seek the reduced sum of £4224.40. Mr Adams withdrew the linked application seeking an order possession and told the tribunal that the Applicant had entered into a payment arrangement with the Respondent, to which she was adhering.

CMD No 3. – 15 January 2025, 1000h, teleconference

10. Mr Adams from the Applicant's Representative attended the CMD.
11. The Respondent did not attend the CMD. There had been no communication to say that they could not attend. The clerk confirmed that the Respondent had received notification of the date, time and joining instructions from the tribunal by email. The tribunal was satisfied on the basis of the email notification of service that the requirements of Rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the party and the material before it, in terms of Rule 29 of the 2017 Rules.
12. Mr Adams stated that a payment arrangement had been entered into between the Applicant and the Respondent in September 2024, to which she was adhering. He made reference to the current schedule of rent arrears and sought permission to amend the sum claimed in the Application to £4224.40. I allowed the amendment.
13. Mr Adams stated that the Applicant wishes to seek an order for payment for the principal sum, plus interest at 4% above the Bank of Scotland base rate from time to time from the date of the order. He submitted that the Applicant is entitled to a payment order for the full amount of rent arrears. He stated that if the Respondent continues to adhere to the payment arrangement, her payments will be set against the outstanding sum and the order will not be enforced. The interest sought is at the contractual rate specified in the tenancy agreement.

14. There has been no defence submitted by the Respondent. She was given the opportunity to seek advice when the case was adjourned at the second CMD in June 2024 and was signposted to useful contacts on the tribunal's website.

Findings in Fact

15. The Applicant is the registered proprietor of the Property.

16. There is an assured tenancy between the parties in respect of the Property.

17. As at 15 January 2025, the Respondent has rent arrears of £4224.40.

18. The contractual rate of interest in the tenancy agreement for late payment of rent is 4% above Bank of Scotland base rate from time to time until paid.

Discussion

19. The tribunal determined on the basis of the Application, including supporting documents that the Applicant had proved that the Respondent owes the Applicant the amended sum of £4224.40 in respect of rent arrears and made an order for payment by the Respondent to the Applicant for the said sum.

20. The tribunal was satisfied that the contractual interest rate for rent arrears is 4% above Bank of Scotland base rate from time to time and made an order for interest on the principal sum at that rate from the date of the order for payment.

S L.M Tanner K.C

Date: 15 January 2025