



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/24/0968

Re: Property at 46 Alexander Drive, Aberdeen, AB24 2XE (“the Property”)

Parties:

Mrs Alicija Tunkevic, Mr Ivan Tunkevic, 46 Alexander Drive, Aberdeen, AB24 2XE (“the Applicant”)

Ms Shelby Pritchard, 153 Gordons Mill Road, Aberdeen, AB24 2XS (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for payment of SEVEN THOUSAND SEVEN HUNDRED AND SEVENTY NINE POUNDS AND SIXTY ONE PENCE (£7,779.61) STERLING together with interest thereon at the rate of five per cent centum per annum from the date of this Decision.

Background

1. An application had been received under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment.

2. The application contained papers including the tenancy agreement, rent statement, text messages, bank statements and correspondence between the parties.
3. This case called for a case management discussion on 26 September 2024 but was continued on that date for evidence of service of the application on the respondent.
4. The application called again for a case management discussion on 17 January 2025 by Webex. In attendance was the applicant's representative, Anna Ziarkowska, Lege Expertia. There was no appearance from the respondent. The tribunal was satisfied that service had taken place. It was prepared to proceed in the absence of the respondent.

Discussion

5. The applicant's representative advised that the respondent currently owed £7,779.81. This was outstanding as of 14 October 2023. She advised that there had been no payments towards the rent arrears since that date. She advised she sought an order for payment for that sum.
6. She had submitted the tenancy agreement showing that the rent was £850 a month and a rent statement. In addition, she provided evidence of messages between the parties seeking repayment of the rent. There had been no offers to repay the arrears.
7. She also sought an order for interest at the rate of 8% per annum. She advised that the debt had been outstanding since October 2023. There had been no proposals to make any payment to the arrears. The respondent had made no repayment of the sums due. The applicants were not a commercial venture, this was their only property which they leased out. Non-payment of the rent affected their ability to pay for household costs.

Findings in Fact

8. The Tribunal found the following facts established: -
9. There existed a private residential tenancy. It had commenced on 1 November 2022.
10. The tenant was Shelby Pritchard.
11. The landlords were Alicija Tunkevic and Ivan Tunkevic.
12. The property was 46 Alexander Drive, Aberdeen.
13. Condition 7 of the tenancy provides that rent is £850 a calendar month payable in advance.
14. There was a rent statement showing how the arrears had occurred.
15. Rent arrears as of 14 October 2023 were £7,779.61.
16. The applicants were a small commercial venture, having only one property to rent out. Outstanding rent arrears had a negative financial impact on them.

Reasons for Decision

17. Section 71 of the 2016 Act provides the Tribunal with the power to deal with civil matters arising out of private residential tenancies, liability for failure to pay contractual rent, is such a matter arising out of that contract.
18. The applicant's representative appeared. The respondent did not appear. The applicant's representative confirmed that she sought an order for payment.

19. The tenancy contract provided that rent of £850 per month was payable by the tenant. The tenant had failed to pay all or some of that rent. As of 17 January 2025 £7,779.61, rent arrears remained outstanding. The tribunal found that the tenant was in breach of contract with the landlord. The arrears had not been reduced since the application was made.

20. In terms of Rule 41A of the tribunal rules, the tribunal may award interest when making an order for payment. Interest will either be at the rate in the tenancy agreement or as ordered by the tribunal. Any order shall run from the date of the decision of the Tribunal. The tribunal will make an order of interest in this case. There is no contractual award to be made. The reasons for making the award are that there has been no attempt at all by the respondent to acknowledge the debt and provide any proposals for repayment. The rent statement showed a failure by the respondent to pay rent from almost the start of the tenancy. The messages submitted by the applicant after the respondent had left the property suggest that the respondent remains not prepared to repay the debt. The applicants are not a large commercial venture and non-payment of rent will impact their finances. It would, therefore, be reasonable to make an award of interest. The Bank of England base rate is currently 4.75 % and I will award 5% in this case.

21. Considering the papers and the oral submission by the applicant's representative, the tribunal was prepared to grant the order for payment and award interest of 5% per annum from the date of the decision.

Decision

The Tribunal grants an order in favour of the Applicant against the Respondent for payment of SEVEN THOUSAND SEVEN HUNDRED AND SEVENTY-NINE POUNDS AND SIXTY-ONE PENCE (£7,779.61) STERLING together with interest thereon at the

rate of five per cent centum per annum from the date of the Decision to make an Order for 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.

Melanie Barbour

17 January 2025

Legal Member/Chair

Date