



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/1812

Re: Property at 17-1 Waggon Road, Bo'Ness, EH51 0BW (“the Property”)

Parties:

Mrs Sally Winning, Mr James Winning, 1 Grahamsdyke Avenue, Bo'Ness, EH51 9EE (“the Applicant”)

Miss Lesley M Platt, 17-1 Waggon Road, Bo'Ness, EH51 0BW (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (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 for payment in the sum of £5861.64.

Background

1. By application dated 27 May 2024 the applicants seek an order for payment in respect of outstanding arrears of rent in terms of section 71(1) of the Private Housing (Tenancies)(Scotland) Act 2016
2. The following documents were lodged with the application:
 - Copy Private Residential Tenancy agreement
 - Rent ledger spanning the tenancy period
 - Correspondence between the parties.
3. A case management discussion took place on 23 October 2024 via teleconference. The applicants were represented by Ms Johnstone, managing

director Northwood Central Ltd, letting agents. The respondent was not present or represented. The respondent had been personally served with papers by Sheriff Officers. The Tribunal was satisfied that that she had been properly notified of the cmd and proceeded in her absence in terms of rule 29.

4. Ms Johnstone explained that the respondent had moved out of the property on 20 September 2024. Since the application had been submitted on 2 May 2024 arrears had increased from £3850 to £5861.64 which was the amount outstanding as at the date the respondent moved out. Ms Johnston stated that she sought an order for the increased amount of £5861.64.
5. After some discussion it was agreed that the cmd would be adjourned to a further cmd in order for the applicants to comply with the requirements of rule 14A which sets out the process for amending the sum being sought.

Case management discussion – teleconference – 13 February 2024

6. The applicants were again represented by Ms Johnstone. The respondent was not present or represented. The Tribunal was satisfied that that she had been properly notified of the cmd and proceeded in her absence in terms of rule 29.
7. Ms Johnston sought an order for payment in the sum of £5861.64. The lease which had been lodged had a commencement date of 22 July 2022 and showed that the monthly rent due was £695. Rent accounts had been lodged which spanned the period from the commencement of the tenancy to September 2024. These showed the rent arrears as at 20 September 2024 to be £5861.64.
8. Ms Johnstone referred to an email to the Tribunal dated 23 October 2024 in terms of which the applicants sought to increase the amount sought to £5861.64. Intimation of the amendment request had been made to the respondent by email on the same date.
9. Ms Johnston stated that the applicants had raised an eviction application however the respondent had vacated the property on 20 September 2024 before an order was obtained. She stated that no payments had been made by the respondent since she left the property.

Findings in fact

10. Parties entered into a private residential tenancy agreement with a commencement date of 22 July 2022.
11. Monthly rent due in terms of the agreement was £695.
12. Arrears as at 20 September 2024 amounted to £5861.64.
13. The respondent moved out of the property on 20 September 2024.
14. The respondent has not made any payments towards the rent or arrears since 20 September 2024.

Reasons for the decision

15. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

16. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.
17. The Tribunal had regard to the application, the documents lodged by the applicant and oral submissions at both cmds.
18. The Tribunal gave significant weight to the fact that the respondent had not lodged any defence to the application or disputed the sum sought in any way.

19. The Tribunal was satisfied that the request to amend the sum sued for had been made in compliance with rule 14A and allowed the requested amendment. The Tribunal was satisfied that as evidence by the rent account submitted by the applicants arrears in the amount of £5861.64 were lawfully due as at the date of the cmd.

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.

Mary-Claire Kelly

13 February 2025

Legal Member/Chair

Date