

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/24/2068

Re: Property at 3/3 4 Isla Street, Dundee, DD3 7HT (“the Property”)

Parties:

Mr James Dignan, 66 Monifieth Road, Broughty Ferry, Dundee, DD5 2RX (“the Applicant”)

Mr Selby Magaraba, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £2,595 with interest at the rate of 5% above Bank of England from today’s date, until payment.

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant sought an order for payment in the sum of £2,595 in respect of arrears said to have been incurred by the Respondent.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal issued a letter to the parties dated 11 December 2024 to provide details of a CMD assigned for 6 February 2025. The Respondent’s whereabouts is unknown to the Applicant. Service on the Respondent was effected by advertisement on the Housing and Property Chamber website on 11 December 2024.

The case management discussion – 6 February 2025

4. The CMD took place by conference call. The Applicant was represented by Mr David Wilkie. The Respondent did not join the call, and the discussion proceeded in his absence.
5. The Applicant's representative explained that the rent statement lodged reflects the up to date balance. The Respondent vacated the Property on 16 April 2024. At that time, he told the Applicant that he would clear the rent arrears. However, the Respondent has not made any further contact with the Applicant or his representative and there has been no arrangement agreed to repay the arrears. The current balance of arrears is £2,595. The Applicant's representative moved for an order for payment in that sum, together with interest at the rate of 5% above the Bank of England base rate per annum.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 15 November 2022.
7. The contractual monthly rent was £475.
8. The Respondent owes the Applicant £2,595 in respect of rent arrears.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged, and the submissions made at the CMD. The Respondent did not participate in the CMD. There was nothing to indicate that the Respondent disputed the level of rent arrears. In the absence of evidence to the contrary, the Tribunal was satisfied that the rent statement was accurate. The Tribunal was satisfied that Respondent owe the sum of £2,595. Accordingly, the Applicant's motion for an order for payment in that sum was granted.
10. The Tribunal observed that there is a contractual provision for interest to be charged on late payment of rent. Given that the parties agreed this provision for interest, the Tribunal awarded interest on the sum due at the rate of 5% above Bank of England base rate 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.

Nicola Irvine

Nicola Irvine

Legal Member/Chair

6 February 2025

Date