



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

Chamber Ref: FTS/HPC/CV/24/3446

Re: Property at 3/4 2 Helenvale Square, Glasgow, G31 4BP (“the Property”)

Parties:

LAR Housing Trust, F3 Buchan House, Enterprise Way, Fife, Dunfermline, KY11 8PL (“the Applicant”)

Mr Marc Young, 3/4 2 Helenvale Square, Glasgow, G31 4BP (“the Respondent”)

Tribunal Members:

Sarah O’Neill (Legal Member) and Frances Wood (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 by the Respondent of the sum of £7,301.25 should be granted in favour of the Applicant with interest thereon at the rate of 4% per annum running from the date of this decision until payment.

Background

1. An application was received from the Applicant’s solicitor on 26 July 2024 for a payment order in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act 2016) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).
2. The Applicant was seeking an order for payment of £3057.50 in rent arrears alleged to be owed by the Respondent to the Applicant, together with interest at the rate of 8% on the order from the date of the decision in terms of rule 41A of the 2017 rules.

3. Attached to the application form were:
 - (i) Copy private residential tenancy agreement between the parties which commenced on 23 June 2022.
 - (ii) Rent statement showing the Respondent's outstanding rent arrears to be £3057.50 as at 1 July 2024.
 - (iii) Rent increase notice dated 24 April 2023 notifying the Respondent that the rent would increase from £566.50 per month to £583.50 per month from 1 August 2023.
4. The application was accepted on 20 August 2024.
5. Notice of the case management discussion (CMD) scheduled for 26 February 2025, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 30 January 2025. The Respondent was invited to submit written representations by 18 February 2025.
6. A request to amend the application was received by email from the Applicant's solicitor on 11 February 2025 in relation to the sum claimed. The email was accompanied by: 1) an updated rent statement which showed that the outstanding rent arrears owed by the Respondent had increased to £7,301.25 as at 1 February 2025 and 2) a copy letter dated 11 February 2025 addressed to the Respondent notifying him of the amendment request, which stated that it was being sent by first class and recorded delivery .
7. No written representations or time to pay application were received from the Respondent prior to the CMD.

The case management discussion

8. A CMD was held by teleconference call on 5 March 2025 to consider the present application and the accompanying eviction application (FTS/HPC/EV/24/3447). The Applicant was represented on the teleconference call by Ms Kirstie Donnelly of T.C. Young solicitors.
9. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. He did not join the teleconference call, however, and no telephone calls, messages or emails had been received from him.

10. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.

Submissions on behalf of the Applicant

11. Ms Donnelly asked the Tribunal to grant a payment order in favour of the Applicant against the Respondent for the sum of £7,301.25. The Applicant had requested to amend the application to increase the sum sought to this amount. As evidenced by the rent statement submitted with the amendment request of 11 February 2025, this was the sum owed by the Respondent as at 1 February 2025.

12. Ms Donnelly noted that the Applicant had sent several pre-action protocol letters to the Respondent. He had previously entered into three separate payment arrangements with the Applicant, all of which had been broken. The Applicant continued to send the Respondent monthly reminders with accompanying rent statements, but there had been no contact from the Respondent since May 2024.

13. Ms Donnelly asked the Tribunal to include interest at the rate of 8% on the order from the date of the decision in terms of rule 41A of the 2017 rules. She noted that it was likely to take the Applicant some time to recover the sum due from the Respondent, and submitted that it would therefore be appropriate to add interest at whatever rate the Tribunal considered should apply.

Findings in fact

14. The Tribunal made the following findings in fact:

- The Applicant owns the property and is the registered landlord for the property.
- There is a private residential tenancy in place between the parties, which commenced on 23 June 2022.
- The rent payable under the tenancy was initially £566.50 per month. The rent has been £583.50 per month since 1 August 2023, payable on the first of each month.
- The Respondent has been in rent arrears since July 2023 and has paid no rent since 3 June 2024.
- As at 1 February 2025, the Respondent owed the Applicant £7301.25 in rent arrears.

- The Respondent entered into three payment arrangements with the Applicant, but failed to adhere to them.

Reasons for decision

15. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.
16. The Tribunal agreed to the amendment request submitted by the Applicant's solicitor to increase the sum claimed to £7,301.15. The Applicant had intimidated the amendment to both the Tribunal and the Respondent at least 14 days prior to the CMD, in accordance with rule 14A of the 2017 rules. The sum claimed was evidenced by the updated rent statement which had been submitted on behalf of the Applicant
17. No written representations had been received from the Respondent to indicate that he opposed the application. He had not made an application for a time to pay direction.
18. On the basis of all the evidence before it, the Tribunal was satisfied that the Respondent owed £7, 301.25 in rent arrears to the Applicant as at the date of the CMD.
19. The Tribunal then considered Ms Donnelly's request for interest to be granted on the sum due from the date of the decision. It noted that the Respondent appears to be in work and has not paid any rent since 3 June 2024. Taking this into account, the Tribunal decided that it would be appropriate to grant interest from the date of decision at the rate of 4% in terms of rule 41A (2) of the 2017 rules.

Decision

The Tribunal grants an order for payment by the Respondent to the Applicants of the sum of £7,301.25 with interest thereon at the rate of 4 % per annum running from the date of this decision 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.

S.O'Neill

5 March 2025

Legal Member/Chair

Date