



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/24/3551

Re: Property at 23 Auldton Drive, Lesmahagow, ML11 0BD (“the Property”)

Parties:

Rewd Manors Limited, Rewd Group HQ, Unit 4 Barons Court, Grangemouth, FK3 8BH (“the Applicant”)

Mr Stuart Walker, Heather Louise Glen, 50 GLENMAVIS CRESCENT, CARLUKE, ML8 4JL (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a payment order in the sum of Eight thousand four hundred and forty five pounds and twenty one pence (£8445.21) Sterling. The Tribunal also exercised its discretion under Rule 41A of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and awarded interest at the rate of 4.5% per annum from the date of this decision until payment.

Background

- 1 The Applicant applied to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 71 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”). The Applicant sought a payment order against the Respondents for the sum of £9100 in unpaid rent together with any further sums due from the date of the application to the date of the order. The Applicant also sought interest at the rate of 8% per annum or any such rate as the Tribunal considered appropriate under Rule 41A of the Rules.

- 2 The application was referred to a Case Management Discussion (“CMD”) to take place by teleconference on 6 March 2025. Notification of the CMD was given to the Applicant. The Tribunal attempted to give notification to the Respondents by sheriff officers however the officers advised that the Respondents were no longer at the tenancy address.
- 3 On 30 January 2025 the Applicant’s representative, TC Young Solicitors, emailed the Tribunal to confirm that the Respondents had vacated the tenancy address. A trace had been instructed. On 11 February 2025 TC Young Solicitors emailed the Tribunal confirming that the Respondents had been traced to 50 Glenmavis Crescent, Carlisle. Notification of the CMD was therefore served upon the Respondents at that address by sheriff officers on 14 February 2025.
- 4 Both parties were invited to make written representations. No written representations, other than those noted above, were received in advance of the CMD.

The CMD

- 1 The CMD took place on 6 March 2025 by teleconference. Miss Simone Callaghan of TC Young Solicitors represented the Applicant. The Respondents did not join the call. The Tribunal delayed the start time of the CMD for a short period before determining to proceed in their absence.
- 5 The Tribunal had the following documents before it:-
 - (i) Form F application form;
 - (ii) Land Certificate LAN131999;
 - (iii) Excerpt from the landlord register confirming the Applicant’s landlord registration;
 - (iv) Tenancy agreement between the parties; and
 - (v) Rent statement.
- 6 The Tribunal heard submissions from Miss Callaghan. She confirmed that the Applicant sought a payment order. She referred to Clause 8 of the tenancy agreement, in terms of which the Respondents had undertaken to pay rent at the rate of £700 per month. The Respondents had vacated the property on 19th August 2024. As at that date rent arrears in the sum of £9445.21 had accrued. The Applicant had since received the tenancy deposit of £1000 and had applied this to the arrears. They were therefore seeking an order for payment in the sum of £8445.21.
- 7 Miss Callaghan moved the Tribunal to exercise its discretion under Rule 41A of the Rules to award interest at the rate of 8% per annum from the date of decision until payment. The Applicant hoped that this would recoup the loss of rent payments and encourage the Respondents to pay the debt.

Findings in Fact

- 8 The Applicant is the registered owner of the property.
- 9 The Applicant and the Respondents entered into a tenancy agreement in respect of the property, which commenced on 5 April 2023.
- 10 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 11 In terms of Clause 8 of the said tenancy agreement the Respondents undertook to make payment of rent at the rate of £700 per month.
- 12 The tenancy between the parties terminated on 19 August 2024.
- 13 As at the date of termination rent arrears in the sum of £9445.21 were outstanding.
- 14 The Applicant has received the tenancy deposit of £1000, which has reduced the arrears to £8445.21.

Reasons for Decision

- 15 The Tribunal was satisfied it had sufficient information upon which to make relevant findings in fact and reach a decision on the application having regard to the application paperwork and the submissions heard at the CMD. In terms of Rule 17(4) and Rule 18(1) of the Rules the Tribunal determined that it could make a decision at the CMD as there were no issues to be resolved that would require a hearing and the Tribunal was satisfied that to make a decision would not be contrary to the interests of the parties. The Respondents had not sought to challenge any of the information provided by the Applicant despite having been given the opportunity to do so.
- 16 The Tribunal was satisfied based on its findings in fact that the Respondent was due to pay the sum of £8445.21 to the Applicant in unpaid rent under the terms of the tenancy agreement between the parties. There was no evidence before the Tribunal to contradict the information provided by the Applicant in this regard.
- 17 The Tribunal therefore made an order for payment against the Respondent in the sum of £8445.21. The Tribunal also determined to exercise its discretion under Rule 41A of the Rules to award interest on the sum sought at the rate of 4.50% per annum from the date of this decision until payment. The Tribunal considered reasonable in the absence of any explicit provision for interest in the tenancy agreement, and in line with the current Bank of England Base Rate.
- 18 The decision of the Tribunal was unanimous.

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.

R.O'Hare

6 March 2025

Legal Member/Chair

Date