



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/24/3491

Re: Property at 113 Marmion Drive, Glenrothes, KY6 2PQ (“the Property”)

Parties:

Mrs Gillian Maccunn, 5 Queen Street, Dunshalt, Cupar, KY14 7HD (“the Applicant”)

Mr Scott Hume, 113 Marmion Drive, Glenrothes, KY6 2PQ (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Ann Moore (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 in the sum of £5,890 should be made in favour of the Applicant.

Background

1. By application received on 30 July 2024, the Applicant originally sought a payment order against the Respondent in the sum of £2,390 in respect of rent arrears. Supporting documentation was submitted with the application, including a copy of the tenancy agreement and a rent statement. An eviction application was lodged at the same time and has been conjoined with this application.
2. Following initial procedure, on 22 August 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.

3. Notification of the application and details of the Case Management Discussion ("CMD") fixed for 17 March 2025 was served on the Respondent by way of Sheriff Officer on 10 February 2025. In terms of said notification, the Respondent was given until 1 March 2025 to lodge written representations. No written representations were lodged by or on behalf of the Respondent prior to the CMD.
4. By email dated 21 February 2025, the Applicant's representative submitted an application to amend the application in order to increase the sum sought to £5,890 being the amount owing as at 30 January 2025, together with an updated Rent Statement in support. Said documentation was copied direct to the Respondent at the same time by the Applicant's representative. The Tribunal further circulated copies of same to the Respondent subsequently.

Case Management Discussion

5. A Case Management Discussion ("CMD") took place by telephone conference call on 17 March 2025 at 10am, attended only by the Applicant's representative, Ms Simone Callaghan of TC Young, solicitors. Commencement of the CMD was delayed for 5 minutes to give the Respondent an opportunity to join late, but he did not do so.
6. Following introductions and introductory remarks by the Legal Member, Miss Callaghan addressed the application and reference was made to the supporting documentation lodged. She confirmed that the amount owing originally in terms of the application had been £2,390 but that they had applied in advance of the CMD to increase the amount sought to £5,890, being the amount owing in terms of the updated rent statement as at 30 January 2025. Ms Callaghan confirmed that the rent is £500 per calendar month and that the amount currently owing is actually £5,940.
7. Ms Callaghan explained that the Respondent is aged between 40 and 60 years old and was a self-employed joiner, although recently has started to be paid Universal Credit. Ms Callaghan does not know the circumstances of this but it is assumed that he may no longer be in employment. The Applicant has been communicating with the Respondent regularly regarding the rent arrears situation. The Respondent is ex-military and has recently enlisted the help of an organisation 'Help for Heroes' who are assisting him in relation to the rent arrears and there has been a payment plan agreed with the Applicant in respect of the arrears. One payment of £450 from the Respondent's Universal Credit was made on 14 February 2025, since the date of the updated rent statement lodged with the Tribunal. The current arrears figure quoted of £5,940 takes into account that payment of £450. Prior to that, it was noted that there was a history of rent arrears and that the last payment to the rent account had been in March 2024. Ms Callaghan stated that the reason for the recent proposals in respect of the rent arrears is likely due to the difficulties that the Respondent may otherwise encounter in respect of his housing application due to the rent arrears.

8. Miss Callaghan summed up in respect of the payment application, requesting that the Tribunal grant a payment order in the increased sum claimed of £5,890, plus interest thereon from the date of the order at the judicial rate of interest of 8% or such other rate as the Tribunal thought appropriate. Ms Callaghan stated that the justification for seeking 8% interest is to encourage faster payment of the debt. The arrears had accrued over a long period of time, during which time the Applicant did not have the benefit of the rent monies being paid.
9. The Tribunal Members conferred and subsequently confirmed that the Tribunal would grant the payment order sought in the increased sum, with interest, but at the rate of 4.5% (being the Bank of England current base rate) rather than the 8% sought. Ms Callaghan was thanked for her attendance and for the detailed information she had provided in respect of the application.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 31 July 2020.
3. The monthly rent in terms of the tenancy is £500 per calendar month.
4. There was a background of rent arrears and the Respondent stopped paying rent altogether around the time formal eviction notice was served in April 2024.
5. Substantial rent arrears accrued and amounted to £2,390 when this Tribunal application was lodged in July 2024.
6. One payment of £450 was made towards rent via the Respondent's Universal Credit on or around 14 February 2025.
7. The current balance of rent arrears owing is £5,940.
8. The Applicant contacted the Respondent regularly regarding the rent arrears but no payments were made until the payment of £450 on 14 February 2024.
9. The Respondent has remained in occupation of the Property.
10. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this Application.
11. The Respondent did not attend the CMD.
12. The sum of £5,890 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy in terms of this application and has not been paid by the Respondent.

Reasons for Decision

1. The Tribunal considered all of the background papers, including the application and supporting documentation and the oral submissions made by Ms Callaghan on behalf of the Applicant at the CMD. The Tribunal noted that no representations had been made by the Respondent and that he did not attend the CMD, having been properly and timeously notified of same.
2. The Tribunal was satisfied that the application on behalf of the Applicant to increase the sum sought had been made timeously in terms of Rule 14A of the Regulations and, accordingly, the Tribunal permitted said amendment to be made.
3. The Tribunal considered that there was nothing to contradict the information from the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Tribunal was satisfied that the Respondent remained in occupation of the Property and that the sum of £5,890 was due and resting owing by the Respondent in respect of unpaid rent due to the Applicant and that, in the circumstances, a payment order in terms of the amended application could properly be made at the CMD.
4. The Tribunal considered the request from the Applicant to apply interest on the principal sum from the date of the order until payment at the rate of 8% in terms of Rule 41A of the Regulations and the stated reasons for that rate being sought. Whilst the Tribunal considered it reasonable to exercise its discretion and apply interest in the circumstances of this case, the Tribunal considered the rate should be 4.5% per annum, being the current Bank of England base rate.

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 Weir

Legal Member/Chair

17 March 2025
Date