



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/24/2725

Re: Property at 10 Wardlaw Crescent, East Kilbride, South Lanarkshire, G75 0PX ("the Property")

Parties:

Louise Thom, 79 Wellhall Road, Hamilton, ML3 9BY ("the Applicant")

Florence Afasanwo, Glover Ogbodu, 10 Wardlaw Crescent, East Kilbride, South Lanarkshire, G75 0PX ("the Respondents")

Tribunal Members:

Nairn Young (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

- Background

This is an application for an order for payment of rent arrears alleged to be owed by the Respondent to the Applicant in terms of a private residential tenancy agreement. It called for case management discussion ('CMD') at 10am on 11 March 2025, by teleconference. The Applicant was represented on the call by Ms Wooley, of Bannatyne Kirkwood France & Co., solicitors. The Respondents were not on the call or represented. The commencement of the CMD was delayed by 10 minutes in case they were experiencing any technical difficulty; but there remained no contact from them.

Notice of the application and the CMD was served on the Respondents by sheriff officers on 3 February 2025. The Tribunal therefore considered that proper notice had been given and that it was fair to proceed on the basis the matter was unopposed.

- Findings in Fact

The Tribunal considered the following unopposed facts as relevant to its decision:

1. The Applicant lets the Property to the Respondents in terms of a private residential tenancy agreement with a start date of 31 May 2021.
2. In terms of the tenancy agreement, rent of £795 is due on the 1st day of each month.
3. There is no provision in the tenancy agreement for interest to be applied to any outstanding sum.
4. The Respondents paid only £500 in rent on 7 September 2022 and has been consistently in arrears since that date.
5. This application was raised seeking the sum of £9,940 and interest.
6. As at the date of the CMD, the Respondent's rent arrears stood at £17,095.

- Reasons for Decision

7. The amount of rent arrears outstanding being now in excess of the sum sought, an order for payment of the sum sought was made.
8. The Applicant had also asked the Tribunal to make any award subject to interest at a rate of 4.5% per annum, being the base rate set by the Bank of England plus 2%. The Tribunal declined to do so. The parties did not agree that outstanding sums would be subject to interest in the tenancy agreement,

and they could not therefore have expected interest to be applicable to such sums. The rate sought in interest was not set out in the application, nor was any notice given of what rate would be sought by reference to the base rate, or any other figure. The Tribunal therefore considered that the Respondents did not have fair notice of what rate would be sought.

9. In addition, the matter calls conjoined with an application for an eviction order granted, at least in part, on the basis that the Respondents are not able to address the rent arrears they have amassed. In those circumstances, the Tribunal considers it would be unduly and pointlessly punitive to apply interest to this order.

- Decision

Order granted for payment by the Respondent to the Applicant of the sum of NINE THOUSAND, NINE HUNDRED AND FORTY POUNDS STERLING (£9,940).

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.

N Young

Legal Member/Chair

_____**26 March 2025**_____
Date