



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising from a tenancy under Section 32 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/CV/20/1092

Re: Property at 2/2, 15 Well Street, Paisley (“the Property”)

Parties:

Mr Matthew Macguire, 138 Olsen Ave, Arundel, Queensland, QLD 4214, Australia (“the Applicant”)

Mr Piotr Lesniak, Flat G/2, 19 Walker Street, Paisley, PA1 2EP (“the Respondent”)

Tribunal Members:

Susan Christie (Legal 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 be granted against the Respondent in the sum of £3280.61.

Background

1. The application was made on 16 April 2020. The Applicant sought an Order for payment in the sum of £3686.01 plus interest and legal fees.
2. A Case Management Discussion (CMD) took place on 10 August 2020. Only the Applicants’ Representative participated. It was adjourned and a further CMD was needed to allow further information to be produced, as detailed in the Note of the Outcome of the last CMD.
3. A further CMD took place on 23 September 2020. The Applicant’s Representative participated. It was noted that by e mail of 22 September 2020 she sought further time to answer the matters raised previously. She had obtained some information, but her enquiries were not complete as of today.
4. During the call I was alerted to the fact that the Respondent had attended at GTC personally and needed an Interpreter. He left the building and had not

dialled in to the conference call. I was therefore unable to obtain details of his position in response.

5. I noted that the application proceeds under Rule 70.
6. Accordingly, I adjourned the CMD and it proceeded to further case management discussion at a date to be afterwards fixed and intimated to the Parties.
7. I produced a Note that was issued to the Parties and it advised that Respondent should seek assistance to interpret the documents and allow him to answer the Application, without delay. I also issued a Direction to the Parties.
8. A written submission and bundle of documents was lodged by the Applicant's Representative in response.
9. No response was received from the Respondent.
10. The case proceeded to a CMD today. I was satisfied intimation had been made to both Parties on 7 October 2020.
11. Ms Chopra represented the Applicant. The Respondent did not participate. An interpreter had been secured and was available but was not needed.
12. The various documents lodged in support of the application were considered and discussed along with the terms of the Short Assured Tenancy Agreement between the Parties.
13. I was prepared to grant an Order for the following:
 - (1) The unpaid rent due and owing calculated in the rent schedule produced at £1685.
 - (2) The cost of replacing three electric heaters out of five which had been removed from their wall fixings. Three were found to be no longer working but had been working at the beginning of the tenancy. Cost-£244.99.
 - (3) The cost of reinstalling the heaters and replacing a washing machine plug that had been removed during the tenancy, of £78.
 - (4) The costs of clearing out items left, redecoration needed, cleaning and crediting the electricity meter to allow work to be carried out. I deducted the deposit recovered of £425 as it appeared from the submissions and documents when read together that it was appropriate to do so. Net cost-£315.
 - (5) The legal and associated costs incurred as detailed in the invoices of 27 March 2019 and 31 May 2019 which related to work carried out directly attributable to the failure to pay rent and seeking to remedy the breach and seek recovery using a rent arrears Ground. Invoices for £326.42 and £631.20.
 - (6) The total being £3280.61.

Findings in Fact

- I. A Short Assured Tenancy was entered into between the Parties on 26 March 2015 and latterly continued monthly on 26th of the month.
- II. The rent being £395 per calendar month payable in advance.
- III. The unpaid rent due and owing calculated in the rent schedule produced is £1685.

- IV. The Respondent is liable to pay for the cost in replacing three electric heaters at 244.99.
- V. The Respondent is liable to pay for the cost of reinstalling the heaters and replacing a washing machine plug that had been removed during the tenancy at £78.
- VI. The Respondent is liable to pay for the costs of clearing out Property left, redecoration needed cleaning and crediting the electricity meter to allow work to be carried out, (less the deposit) of £315.
- VII. The Respondent is liable to pay for the cost of the legal and associated costs incurred as detailed in the invoices of 27 March 2019 and 31 May 2019 which related to work carried out directly attributable to the failure to pay rent and seeking to remedy the breach and seek recovery using a rent arrears Ground, being £326.42 and £631.20.
- VIII. The total sum due and owing by the Respondent to the Applicant is £3280.61.
- IX. An Order is granted in the sum of £3280.61.

Reasons for Decision & Decision

I proceeded in the absence of the Respondent as I was satisfied that intimation had been made.

Reference was made to the terms of the Short Assured Tenancy agreement in support of the headings of claim.

I was not prepared to grant an Order for the invoice dated 7 August 2019 as this seemed to relate to an insurance claim which was directed to the insurers to pay.

As there was no contractual right to interest referred to, I was not prepared to grant the interest sought at 8%. However, I was prepared to grant interest at the rate of 2% until payment as being a reasonable rate having regard to a figure that appeared to me to be more in line with use value.

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. Christie

Legal Member/Chair

11 November 2020
Date

