

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/1483

Re: Property at 35 Kincardine Place, East Kilbride, G74 3DN (“the Property”)

Parties:

Miss Kerry Paterson, c/o Goodearl Property Management Ltd, 3rd Floor, 147 Bath Street, Glasgow, G2 4SN (“the Applicant”)

Mr Andrew John McGee, 35 Kincardine Place, East Kilbride, G74 3DN (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £2471.51.

Background

1. By application dated 14 May 2019 the Applicant applied to the Tribunal for an order for payment by the Respondent in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representatives Bannatyne, Kirkwood, France & Co, Solicitors, Glasgow, provided the Tribunal with a copy of the tenancy agreement and a rent statement in support of the application.
2. By Notice of Acceptance dated 28 May 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was sent to the Applicant's representatives by post on 18 June 2019. Intimation was served on the Respondent by Sheriff Officers on 19 June 2019.
4. The Applicant's representatives applied to the Tribunal to amend the sum claimed to £2471.51 by application dated 3 July 2019 and intimated said application to the Respondent by recorded delivery post on the same day.

The Case Management Discussion

5. The Case Management discussion was held at Glasgow on 22 July 2019. Applicant was not present but was represented by Miss Kirsty Donnelly of the Applicant's representatives. The Respondent appeared personally.
6. The Tribunal allowed the sum claimed to be amended to £2471.51. The Respondent advised the Tribunal that he had paid £755.00 when he had commenced the tenancy £500.00 of which had been the deposit. He had then paid a further £500.00 in February 2019. He had not made any other payments. He accepted that the rent arrears stood at £2471.51. He said he could not afford to make any payment to the Applicant. He could carry out unpaid work on the property if the Applicant wished. He had expected to be in receipt of housing benefit of £350.00 per month but had only received £248.00 per month and as a result of the way in which Universal Credit was paid he could not afford to pay the rent to the Applicant and the arrears had built up.
7. For the Applicant Miss Donnelly asked the Tribunal to grant the order for payment of the amended sum together with interest.
8. The Respondent objected to interest being applied as he was already in debt.

Findings in Fact

9. The parties entered into a Private Residential Tenancy Agreement that commenced on 14 December 2018 at a monthly rent of £425.00.
10. Between January 2019 and July 2019 the Respondent accrued rent arrears of £2471.51.

Reasons for Decision

11. The Tribunal noted that the Respondent did not dispute that he had accrued rent arrears of £2471.51 and that the Applicant was entitled to payment. Although the Respondent was in financial difficulties that in itself was in the Tribunal's view not a reason for refusing to award the Applicant interest on the sum claimed. The Tribunal was of the view however that in any award of interest should reflect the current rates of interest available and balance the interests of both parties and therefore a rate of 2% per annum was in the circumstances reasonable.

Decision

12. The Tribunal finds the Applicant entitled to an order for payment by the Respondent in the sum of £2471.51 together with interest at the rate of 2% per annum from the date of the decision until payment.

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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.

Graham Harding

Legal Member/Chair

Date

22 July 2019

