



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

Chamber Ref: FTS/HPC/CV/22/0363

Re: Property at Flat 0/2, 4 Hillside Park, Hardgate, Clydebank, G81 6BD (“the Property”)

Parties:

Mr James Brady, Fearn Cottage, Dell Road, Nethybridge, PH25 3DJ (“the Applicant”)

Mr David Munn, Flat 0/2, 4 Hillside Park, Hardgate, Clydebank, G81 6BD (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment to the Applicant in the sum of Five Thousand Two Hundred Pounds (£5,200) Sterling, with interest thereon at the rate of 3% per annum running from the date of the decision of the First-tier Tribunal to grant this order, being 4 May 2022, until payment.

Background

1. The application for a payment order was accepted by the tribunal on 24 February 2022. The tenancy agreement relied on is a private residential tenancy under the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”).
2. The tribunal paperwork was served on the Respondent by Sheriff Officers service on 11 March 2022, by letterbox service.
3. The Respondent was invited to submit a written response by 31 March 2022. No written representations were submitted by the Respondent.

The Case Management Discussion- 4 May 2022

4. A Case Management Discussion (CMD) took place on 4 May 2022 by conference call. The Applicant was represented by Ms Mullen.
5. The Respondent did not participate. The tribunal was satisfied the procedure was fair, intimation having been made to the Respondent, and proceeded in his absence.
6. The tribunal was addressed by Ms Mullen.
7. The paperwork submitted along with the Application was examined and discussed.
8. The Applicant is the registered owner of the Property and landlord.
9. A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent over the Property on or around 28 January 2019, with a start date of 31 January 2019.
10. The contractual rent is £450 per calendar month, payable in advance.
11. A payment order was sought today in the sum of £5,200; in line with the application to amend the sum sought in the application submitted to the tribunal and intimated to the Respondent on 22 March 2022.
12. The rent is £450 per calendar month payable in advance. It was explained that the rent arrears as at today stood at £5,650 and there had been no engagement by the Respondent. Attempts had been made to engage with the Respondent around the rent arrears, but this was unsuccessful. A letter had been sent on 22 September 2021 giving details of the rent due, inviting payment, and giving appropriate advice.
13. The last payment to rent was made by the Respondent on 21 April 2022 of £200. No payments had been made since then.
14. As background and in line with the associated application also calling today, the Applicant had decided to sell the Property as he is disillusioned with his experience in letting the Property and the lack of engagement by the Respondent. Having regard to the duration of the tenancy there had been rent arrears for some time.
15. Interest was sought in the application on any unpaid sums until payment at the rate of 3% or 4% to compensate the Applicant for the loss of return on the sum owed.
16. A brief adjournment took place to allow discussion between the tribunal members.

Findings in Fact

- I. A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent over the Property on or around 28 January 2019, with a start date of 31 January 2019.
- II. The contractual rent agreed between the Parties is £450 per calendar month payable in advance from 31 January 2019.
- III. As of 15 March 2022, the unpaid rent due and payable is £5,200.
- IV. The last payment made by the Respondent towards rent due was £200 on 21 April 2021. No further payments have been made by the Respondent since then.

- V. An order for payment in favour of the Applicant in the sum of £5,200 is granted against the Respondent.
- VI. interest thereon is granted at the rate of 3% per annum running from the date of the decision of the First-tier Tribunal to grant this order, being 4 May 2022, until payment.

Reasons for Decision & Decision

The application has been served on the Respondent by Sheriff officer service along with the supporting documentation. There was no participation by the Respondent, and he had not made any written representations.

The tribunal had regard to all that was said, and the paperwork produced including the rent payment schedule and the application to increase the sum sought, dated 22 March 2022, and carefully considered it. In addition to the Applicant intimating the amendment to the Respondent directly, the tribunal had crossed over the paperwork to the Respondent on 24 March 2022. The tribunal was satisfied the Respondent was aware the new sum sought is £5,200.

A Private Residential Tenancy (PRT) was entered into between the Parties.

The agreed rent is £450 per calendar month payable in advance. Attempts had been made to engage with the Respondent around the rent arrears, but this was unsuccessful. A letter had been sent on 22 September 2021. The Respondent is believed to be 40 years of age and was employed when he took on the let. No further information was known regarding his finances as there had been no contact. The rent arrears have accrued over a considerable period. It was explained that the rent arrears as at today stood at £5,650.

The Tribunal was satisfied a payment Order should be made today in the sum of £5,200 as sought.

Interest was sought on the unpaid sums due until payment is made. There is no provision in the contract for payment of interest. The tribunal is satisfied that it is appropriate to grant interest on the Order for payment. This is granted at the rate of 3% which is in line with the current use value of the money that is owed, based on the tribunal's understanding of the current borrowing rate for shorter term loans. The decision is 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.

Susan Christie

Legal Member/Chair

4 May 2022
Date