



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising from a tenancy defined in Section 1 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/1220

Re: Property at 32E Constitution Street, Dundee, DD3 6ND (“the Property”)

Parties:

RHM Contracts Ltd, 3 Kings Hill Meadow, Bude, Cornwall, EX23 8SR (“the Applicant”)

Mr Alex Forootan, formerly residing at 32E Constitution Street, Dundee DD3 6ND and current address unknown (“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 against the Respondent be granted for payment of £1500.40 to the Applicant; with interest on £1410.40 only at the rate of 3.25% from 10 June 2022 until payment.

Background

1. The application was accepted by the tribunal on 10 June 2022. The Applicant seeks a payment order and interest.
2. The details of the application were provided by advertisement which appeared on the Service by Advertisement page of the website of the First-tier Tribunal for not less than 14 days.

The Case Management Discussion

3. A Case Management Discussion (CMD) took place on 31 August 2022 at 2 pm by conference call.
4. The Applicant was represented by Mr Alexander, solicitor.
5. The Respondent did not participate. The Respondent’s address is unknown. The tribunal had sight of the Certificate of Service by Advertisement relating to the entry on the Service by Advertisement page of the website of the First-tier Tribunal and proceeded in the Respondent’s absence.

6. The paperwork submitted along with the Application was examined and discussed.
7. The Applicant is the registered owner of the Property and landlord.
8. A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent on 9 March 2020 with a start date of 10 September 2020.
9. The contractual rent being £400 per calendar month payable in advance on the first of the month.
10. The application discloses that an order had been made under reference FTS/HPC/CV/21/2645 by a tribunal which included rent arrears of £3553.02 for the rent up to and including 31 December 2021. In this application a further £1600 of rent arrears were claimed up to 30 April 2022. However, the tenancy had ended on 16 April 2022. It was agreed that the correct figure of rent due up to the end of the tenancy in this application should be £1401.40.
11. The Applicant also sought recovery of reasonable costs incurred as a result of the tenant's failure to pay rent including but not limited to any reasonable costs incurred pursuing the Respondent for unpaid rent. The sum sought in the application is £300 inclusive of VAT as shown in the solicitor's invoice dated 16 August 2022 to the Applicant's Letting Agent.
12. Contractual interest is sought on unpaid rent to which this application relates.

Findings in Fact

- I. A Private Residential Tenancy (PRT) was entered into between the Parties on 9 March 2020, with a start date of 10 September 2020.
- II. The contractual rent due by the Respondent to the Applicant is £400 per calendar month payable in advance on the first of the month.
- III. The tenancy ended on 16 April 2022.
- IV. An order had been made under reference FTS/HPC/CV/21/2645 by a tribunal which included rent arrears of £3553.02 for the rent up to and including 31 December 2021
- V. The sum due of unpaid rent arrears in this application for the period 1 January 2022 to 16 April 2022 is £1401.40.
- VI. The Applicant is contractually entitled to recover from the Respondent the sum of £90 by way of 'Charges' for making this application to the First-tier Tribunal.
- VII. A payment Order in the total sum of £1500.40 is granted.
- VIII. The Applicant is contractually entitled to interest on overdue rent from the day the rent was charged until it is paid at a rate of 2.5% over the Bank of England Base rate.
- IX. The application of interest is granted to run from the date the application was accepted by the tribunal, 10 June 2022.
- X. The relevant Bank of England base rate is 0.75%.
- XI. The contractual interest rate granted on unpaid rent of £1401.40 to run from 10 June 2022 until it is paid is 3.25%.

Reasons for Decision

13. The Respondent did not participate. The tribunal had sight of the Certificate of Service by Advertisement relating to the entry on the Service by Advertisement page of the website of the First-tier Tribunal and proceeded in the Respondent's absence.
14. The tribunal had regard to all that was said and carefully considered the paperwork produced.
15. The contractual rent due by the Respondent to the Applicant is £400 per calendar month payable in advance on the first of the month.
16. The tenancy ended on 16 April 2022.
17. The sum due by the Respondent to the Applicant of unpaid rent arrears in this application for the period 1 January 2022 to 16 April 2022 is £1401.40.
18. The Applicant is contractually entitled to recover from the Respondent the sum of £90 by way of 'Charges' for its Letting Agent making this application to the First-tier Tribunal in terms of Part 37.3, subsection 4 of the Private Residential Tenancy agreement. The tribunal notes that the Letting Agent has instructed solicitors to make this application and that the fee for submitting the application on their behalf by the solicitor's firm is higher than that figure, but the tribunal took the view that contractually the Applicant is only entitled to recover from the Respondent £90 in terms of Part 37.3, subsection 4 of the Private Residential Tenancy agreement.
19. A payment Order in the total sum of £1500.40 is granted.
20. The Applicant is contractually entitled to interest on overdue rent from the day the rent was charged until it is paid at a rate of 2.5% over the Bank of England Base rate by way of 'Charges' in terms of Part 37.3, subsection 1 of the Private Residential Tenancy agreement. It states if rent is 10 days overdue then interest will be chargeable from the day it was due until it is paid at a rate of 2.5% over Bank of England Base rate. The Applicant conceded to the view of the tribunal restricting the application of interest to run from the date the application was accepted by the tribunal, 10 June 2022 as a full breakdown of interest had not been calculated and submitted to the tribunal.
21. The tribunal was advised the relevant Bank of England base rate is 0.75%.
22. The contractual interest rate granted by the tribunal on unpaid rent of £1401.40 from 10 June 2022 until it is paid is 3.25%.

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

31 August 2022.
Date