

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 of the private Housing (tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/3311

Re: Property at C 28 Tullideph Road, Dundee, DD2 2DF (“the Property”)

Parties:

Mrs Alice Mande Elias Woro, c/o 31A North Bridge Street, Bathgate, West Lothian, EH48 4PJ (“the Applicant”)

Miss Vikki Brown, C 28, Tullideph Road, Dundee, DD2 2DF (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member)

Decision (in absence of the Respondent)

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

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment for the sum of £2,834.88 be granted against the Respondent in respect of rent arrears arising out of the tenancy of the Property by the Respondent from the Applicant together with interest at the rate of 3% from the date of this decision.

Background

This was a case management discussion (CMD) in respect of an application by the Applicant dated 14th October 2019 for an order for payment in respect of arrears of rent against the Respondent who is the Tenant in the tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

1. A copy of the Scottish Private Residential Tenancy Agreement dated 6th June 2018 entered into between Mrs Alice Mande Elias Woro the Applicant and Ms Vikki Brown the tenant,
2. Statement or rent arrears showing a sum outstanding as at 7th October 2019 of £2,339.88.

The Applicant is claiming rent was in arrears for the months of June, July, August, September and October. The Applicant has also applied for an order for eviction in a conjoined application under HPC/FTS/ EV/19/3309 and at the date of the application the tenant was still in occupation of the Property.

By letter dated 2nd December 2019 to the Tribunal office the Applicant through her solicitors and representatives Bannatyne Kirkwood France & Co asked for their application to be amended to increase the sum claimed to £2834.88 being the sum they aver is outstanding as at 5th November 2019. The Representative also advised a copy of this request and accompanying revised rent statement was served on the Respondent all in terms of Rule 14 of the Tribunal's rules.

The Respondents have been given notice of this CMD which is confirmed by the Certificate of Service by Sherriff officer dated 21st November 2019. The Tribunal considered it appropriate to proceed with the CMD in the absence of the Respondent fair notice having been given.

CMD discussion

- The Convener made introductions and explained the purpose of the CMD which is to explore the issues and to determine whether a full hearing is required or not. The Convener confirmed that the Tribunal can make any decision at a CMD that it can make after a full hearing.
- The Applicant did not attend but was represented by Ms Donnelly from Bannatyne, Kirkwood France & Co as the Applicant's representative.
- The Respondent did not attend and had not made any written representations.
- The Applicant confirmed that the details in the application were correct. She further advised that the sum outstanding had increased and was now £3,304.88, however Ms Donnelly acknowledged that in the absence of the Respondent she could not ask for any increase in the sum claimed and was seeking an order today for the sum intimated in her firms letter of 2nd December namely £2,834.88. She confirmed that this application for amendment had been sent recorded delivery to the Respondent and was signed for on 4th December. She therefore submitted that the amendment had been properly intimated, sums were outstanding in excess of that and moved the Tribunal to grant an order for the sum claimed namely £2834.88.
- Ms Donnelly also moved for interest to be granted on the sum claimed at a rate to be determined by the Tribunal. She suggested 3% as suitable rate to reflect the inconvenience and detriment to the Landlord for the non-payment.
- The Tribunal accepted this amendment and in the absence of any response from the Second Respondent granted the order for payment.

- **Findings in Fact**

1. The Applicant had entered into a lease of the Property with the Respondent Ms Brown as tenant from 6th June 2018. Said lease is dated 6th June 2018.
2. The rent due in terms of the lease is £495 payable monthly in advance.
3. The Applicant has amended her application in accordance with Rule 14 of the Tribunal's rules.
4. The rent outstanding as at 5th November 2019 was £2834.88 being the sum claimed by the Applicant after her application to amend the application in terms of the sum claimed.
5. The tenant is still living in the Property and rent is still being incurred with the current arrears standing at £3,304.88.
6. An application for eviction has also been lodged by the Applicant and was considered at the same time as this Application.

- **Reasons for Decision**

The Tribunal found the Representative's statements to be credible and found her statements corroborated by the written evidence provided.

The Tribunal accepted that it was reasonable, having found that there are rent arrears due and owing by the Respondent as tenant, that an order for payment for the amended sum of £2834.88 should be granted. In addition the Applicant in her application and through her representative at the CMD has applied for interest on the sum claimed. The Tribunal has agreed this is appropriate and awards 3% as being a reasonable sum. Interest will run from the date of the decision of the Tribunal in accordance with Rule 41A of the Tribunal's Rules of procedure.

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.

Jan Todd

Legal Member/Chair

Date

19th December 2019