

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 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/18/2882

Re: Property at 1/3 New Mart Gardens, Edinburgh, EH14 1TZ (“the Property”)

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

Mr Ian Auld, 1/3 New Mart Gardens, Edinburgh, EH14 1TZ (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £1,225. The Tribunal refused the Applicant’s request for interest at 8% per annum on the sum due.

Background

By application, received by the Tribunal on 25 October 2018, the Applicant sought an Order for Payment of the sum of £685 in respect of arrears of rent that had become lawfully due by the Respondent to the Applicant.

The application was accompanied by a copy of a Short Assured Tenancy Agreement, commencing on 7 July 2016 at a rent of £545.08 per month and a Rent Account Statement showing arrears as at 18 October 2018 of £685. On 21 January 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations to the Tribunal by 8 February 2019. The Respondent made no written representations.

The Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the afternoon of 13 February 2019. The Applicant was represented by Mr Neil Matheson of TC Young, solicitors, Edinburgh. The Respondent was present. The Applicant's representative told the Tribunal that the arrears of rent had risen to £1,525 and asked the Tribunal to make the Order without a hearing. The Respondent contended that the arrears figure did not include a payment of £100 and a further payment of £200 that he had made in August 2018. The Applicant's representative asked for a short adjournment in order to take instructions. Following the adjournment, he advised the Tribunal that the Applicant was prepared to accept an Order for £1,225. The Respondent accepted that this amount was due.

Reasons for Decision

Rule 17 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would decide the application without a hearing.

The Tribunal was satisfied that the sum sought in the application, as amended at the Case Management Discussion, represented arrears of rent that had become lawfully due by the Respondent to the Applicant.

The Applicant had sought interest on the sum due at the rate of 8% in the application a request for interest on unpaid rent as provided for in the Tenancy Agreement and had not applied interest on an ongoing basis to the Rent Account. The Tribunal was not prepared to make an Order which included interest at the judicial rate of 8% per annum.

Decision

The Tribunal determined that the application should be granted without a hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £1,225. The Tribunal refused the Applicant's request for interest at 8% per annum on the sum due.

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.

G Clark
Legal Member/Chair

13 February 2019
Date