



Notes on a Case Management Discussion 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/18/3410

Re: Property at 4 F Dens Road, Dundee, DD3 7ST (“the Property”)

Parties:

John Street (Scotland) Ltd, 52a Church Street, Broughty Ferry, Dundee, DD5 1HB (“the Applicant”)

Miss Louise Hepburn, Mr Aaron Ballantyne, 4 F Dens Road, Dundee, DD3 7ST (“the Respondent”)

Tribunal Member:

Maurice O’Carroll (Legal Member)

Summary of Discussion

Background

1. A Case Management Discussion (“CMD”) was heard on 26 April 2019 at Caledonian House, Greenmarket, Dundee. It was an adjourned CMD from 3 April 2019. The earlier CMD had been adjourned in order that the legal representative for the Applicant could attend and for the Respondents to obtain and provide further information to the Tribunal, if so advised.
2. At the CMD, Claire Herd of the Applicant again attended, represented by Miss Rachel Irvine of Messrs BTO solicitors. Ms Louise Hepburn of the Respondents attended in person, although the other Respondent, Mr Ballantyne was unable to do so. Mr Kenny Marshall of the Dundee North Law Centre appeared and confirmed that he acted on behalf of both Respondents.

Issues discussed at the CMD

- 3 As discussed at the CMD of 3 April 2019, both parties confirmed that Universal Credit payments for the Respondents had resumed and that the amount of rent arrears since the date of the application had fallen as repayments were being

made. Rent due in terms of the rental agreement between the parties was £485 per calendar month.

4. Miss Irvine for the Applicant confirmed that the amount of rent arrears had as a consequence fallen from the £2,543.31 originally sought to the sum of £1,789.82. She provided an up to date schedule of the amounts outstanding. That statement demonstrated that additional sums over and above the rental payment of £485 due had been made since March 2019 in part-payment of arrears, but that there was still a balance of arrears outstanding. Miss Irvine therefore sought payment of the lower principal sum now applicable, with interest at the current judicial rate.
5. Mr Marshall confirmed that the revised principal sum sought was a correct statement of current rent arrears. He therefore did not oppose that part of the application. He contended that the current judicial rate of 8% was too high in light of the current rate of inflation and the banks' base lending rate applicable. He suggested that an amount of 2% would be more appropriate. He did not provide any authority or make any reference to the applicable legislation in support of that submission and, correctly, pointed out that it would be disproportionate to seek an adjournment to allow him to do so.
6. The Chairman considered that it was competent for him to make an award of interest on the principal sum. The normal sum applied is the judicial rate currently applying, which is 8% per annum. Whilst acknowledging that this is a very high rate in light of the factors referred to above, this is the normal rate that is applied to debt judgments.

Outcome

7. In light of the discussions of the parties and the concession made regarding the principal sum due, the Tribunal has decided to make an Order for payment in the sum of £1,789.82, with interest thereon at the current judicial rate. An Order to that effect will be issued with this Note of the CMD.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

M O'Carroll

Legal Member

26 April 2019

Date