



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) 2016 Act

Chamber Ref: FTS/HPC/CV/21/0673

Re: Property at 46 Carlops Avenue, Penicuik, EH26 0DH (“the Property”)

Parties:

Claire Burnet, Kilmarton Cottage, Woodhouselee, Easter Howgate, EH26 0PF (“the Applicant”)

Craig Douglas, 46 Carlops Avenue, Penicuik, EH26 0DH (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

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

Background

- 1) This was an application by the Applicant for civil proceedings in relation to an assured tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy of the Property by the Applicant to the Respondent commencing on 6 November 2020.
- 2) The application was dated 16 March 2021 and lodged with the Tribunal on that date. The application was accompanied by a rent statement setting out arrears of £2,780, being sums said to be due for four months from 6 December 2020 to 5 April 2021. The lease for the tenancy accompanied the application and detailed a rental payment of £695 payable in advance on the 6th of each month.

- 3) In advance of the CMD, further to enquiries from the Tribunal, the Applicant's representative confirmed the Applicant's home address (as a care of address had been provided with the application).
- 4) Further, on 3 May 2021, the Applicant's representative lodged a motion to amend the order sought to £3,475, being for five months rent (6 December 2020 to 5 May 2021). Evidence of intimation of this motion, with an updated rent statement, upon the Respondent by Recorded Delivery post was provided to the Tribunal (along with evidence showing that it was signed for, apparently by the Respondent, on 5 May 2021).

The Hearing

- 5) On 20 May 2021, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote conference call at 14:00, I was addressed by Scott Runciman, a solicitor of Gilson Gray, on behalf of the Applicant. There was no appearance by the Respondent.
- 6) As of 14:07, there was no appearance from the Respondent (that is, he did not call into the teleconferencing number, nor did he do so by the time the call concluded around 14:15). The Applicant's agent stated that there had been no contact from the Respondent on the matter nor further to a Notice to Leave that had now having been served on him. The Tribunal's clerk confirmed that there was no contact from the Respondent on the application. I was thus satisfied to consider the application in full at the CMD in the absence of the Respondent.
- 7) The Applicant's representative confirmed that the order for payment was still sought in the amended amount. I took the Applicant's agent though the updated rental statement.
- 8) I amended the Applicant's address in the application and granted the amendment of the application to increase the sum sought to £3,475.
- 9) There was no interest rate in the Tenancy Agreement. The Applicant's agent sought interest on the sum sought under Procedure Rule 41A at 8% per annum from the date of Decision as an appropriate rate. No motion seeking expenses was made.

Findings in Fact

- 10) On 4 November 2020, the Applicant let the Property to the Respondent by lease with a start date of 6 November 2020 under a Private Residential Tenancy ("the Tenancy").
- 11) Under the Tenancy, in terms of clause 8, the Respondent was to make payment of £695 per month in rent to the Applicant in advance, being a payment by the 6th of each month to cover the month to follow.

- 12) As of 3 May 2021, there was unpaid rent of £3,475 being made up of unpaid rent due on 6 December 2020, and 6 January, 6 February, 6 March, and 6 April 2021 (each of £695).
- 13) On 16 March 2021, the Applicant raised proceedings against the Respondent for an order for payment of rent arrears of £2,780.
- 14) On 19 April 2021, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 20 May 2021 and the details for dialling into the conference call.
- 15) On 3 May 2021, the Applicant sought to amend the proceedings against the Respondent so as to seek an order for payment of rent arrears in the increased amount of £3,475. The Applicant intimated said motion by Recorded Delivery on the Respondent.
- 16) The Respondent provided no evidence of payment of any part of the said unpaid rent of £3,475.

Reasons for Decision

- 17) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. I was satisfied, on the basis of the application and supporting papers, that rent arrears of £3,475 were outstanding as of 3 May 2021 being a straight five months of rent.
- 18) As the application clearly set out the sums, as did the amendment intimated by Recorded Delivery, I was satisfied that the necessary level of evidence for such civil proceedings had been provided. No dispute was stated by or on behalf of the Respondent. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the amended sum of £3,475 against the Respondent.
- 19) I was satisfied that it was appropriate to award interest at 8% per annum from the date of Decision.

Decision

- 20) In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of £3,475 with interest at 8% per annum running from today's date.

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 sent to them.

Joel Conn

Legal Member/Chair

Date