



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 Housing (Scotland) Act
2014**

Chamber Ref: FTS/HPC/CV/20/2643

Property at 89 Gartloch Avenue, Glasgow, G69 9FE (“the Property”)

Parties:

Ms Nicole Lyons, 61 Micklehouse Road, Baillieston, Glasgow, G69 6TG (“the Applicant”)

Mr Lee Crawford, 89 Gartloch Avenue, Glasgow, G69 8FE (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the sum of £4347.80 should be granted against the Respondent in favour of the Applicant.

Background

1. By application received on 21 December 2021 the Applicant seeks a payment order in relation to arrears of rent. Documents lodged in support of the application included a copy tenancy agreement and rent statement. The Applicant also lodged a copy of a decision with statement of reasons by the Tribunal in relation to a related application. This decision states that an order for possession of the property was granted on 7 December 2020.
2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer on 30 January 2021. Both parties were notified that a case management discussion (“CMD”) would take place by telephone case conference on 3 March 2021 at 2pm and that they were required to

participate. Prior to the CMD the Applicant's solicitor lodged an updated rent statement showing a balance due on 5 February 2021 of £3470. The solicitor confirmed that the Applicant wished to amend the application to reflect the increased figure.

3. At approximately 12.15pm on 3 March 2021 the Respondent contacted the Tribunal administration by telephone regarding requesting a postponement of the CMD. He was advised to put the request in writing and at 12.40pm sent an email which said that he did not feel confident or comfortable about taking part in the CMD because, until his telephone call, he had assumed that the only participants would be the Tribunal Member and himself. He had not realised that the Applicant's solicitor would also be on the call. He felt that he should also be legally represented. He stated that he was requesting a postponement to obtain legal representation. He also advised that his financial position had improved, that he had a part time job, that his father had promised to assist with the arrears, and he expected to receive a tenant hardship loan. He concluded by saying he hoped to be able to clear the arrears shortly. Due to the short notice of the request the Legal Member determined that the CMD should proceed as scheduled and that the Respondent's request for a postponement or continuation could be considered at the start of the CMD. At 1.20 pm the Applicant's solicitor was notified of the request and the decision of the Legal Member. However, due to administrative oversight, the Respondent was not notified that the Legal Member had determined that the CMD would proceed until an email was sent to him at 1.50 pm.
4. The case called for a CMD on 3 March 2021 at 2pm. The Applicant was represented by Mr Harris, solicitor. The Respondent did not participate and was not represented. Due to the late notice of the Legal Member's decision to proceed with the CMD, the Legal Member determined that the CMD should be postponed to allow the Respondent the opportunity to participate. Both parties were notified that a CMD would take place on 15 April 2021 at 11.30am, by telephone conference call. They were provided with a telephone number and passcode and advised that they were required to participate. Prior to the CMD, the Applicant submitted an updated rent statement and confirmed that he wished to amend the application to reflect the current sum due of £5042.
5. The CMD took place by telephone conference call on 15 April 2021 at 11.30 am. The Applicant was represented by Mr Napier, solicitor. The Respondent did not participate and was not represented. He did not contact the Tribunal or lodge written representations in advance of the CMD.

Case Management Discussion

6. Mr Napier advised the Legal Member that the Respondent remains in occupation of the property. An eviction order has been granted by the Tribunal but cannot be enforced due to the current prohibition against evictions. There has been no contact with him, and he has made no payments to his rent

account since the last CMD.

7. Mr Napier referred the Legal Member to the updated rent statement and submissions lodged in advance of the CMD. The statement shows rent due up to 7 March 2021 of £4165. In the submissions, the Applicant indicates that she is also seeking the additional month's rent due on 7 April of £695 and the additional 8 days due between that date and 15 April 2021, of £182.80. The Legal Member noted that the tenancy agreement lodged with the application states that rent is due at the rate of £695 per calendar month, payable in advance. As a result, it appeared that the rent instalment due on 7 April 2021, was for the period from that date until 6 May 2021. As a result, only the first 8 days of this instalment of rent was due. Mr Napier confirmed that this was correct and advised that the Applicant was therefore seeking a payment order for the sum of £4347.80, being the sum outstanding up to and including the 15 April 2021. He advised the Legal Member that the Respondent has made no payments to the rent account since October 2020. Mr Napier also advised that the Applicant was seeking interest at the rate of 3.5% on the principal sum, as stated in the application form.

Findings in Fact

8. The Applicant is the owner and landlord of the property.
9. The Respondent is the tenant of the property in terms of a short assured tenancy agreement. The tenancy commenced on 7 May 2015.
10. The Respondent is due to pay rent at the rate of £695 per month.
11. The Respondent has been in arrears of rent since 7 May 2020.
12. The Respondent owes the sum of £4347.80 in unpaid rent to the Applicant.

Reasons for Decision

13. The Legal Member considered the application and the information provided by the Applicant at the CMD. The Legal Member is satisfied that the Respondent has incurred arrears of rent of £4347.80. No payments have been made to these arrears and no proposals for repayment have been offered. The Legal Member is satisfied that the Applicants are entitled to an order for payment for the sum of £4347.80.
14. The Applicant seeks interest on the sum sought in terms of Rule 41H(b) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The rate of interest specified in the application form is 3.5%. The Legal Member is satisfied that the Respondent has been notified in the application form that interest is sought and that the Tribunal is entitled to award

interest, in terms of Rule 41H. However, the Legal Member considers that the appropriate rate of interest which should be applied is 3%.

15. The Legal Member is therefore satisfied that an order for payment should be granted for the sum of £4347,80 with interest from the date of the order at the rate of 3% per annum.

Decision

16. The Legal Member determines that a payment order should be granted against the Respondent for the sum of £4347.80 with interest from the date of the order at the rate of 3% per annum.

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.

Josephine Bonnar

Josephine Bonnar, Legal Member

15 April 2021