



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/21/0923

Re: Property at Town O'Rule Farm, Hawick, TD9 8JB (“the Property”)

Parties:

Mr Jamie Reddihough, 24 Ivy Road, Gosforth, Newcastle Upon-Tyne, NE3 1DB (“the Applicant”)

Mr Glen Donnelly, Mrs Louise Donnelly, Town O'Rule Farm, Hawick, TD9 8JB (“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 an order for payment of the sum of £3150 with interest at the rate of 3% per annum should be granted against the Respondents in favour of the Applicant.

Background

1. By application dated 15 April 2021, the Applicant seeks a payment order in relation to arrears of rent. Documents lodged in support of the application include a copy private residential tenancy agreement and rent statement showing a balance owing on 29 March 2021 of £3150.
2. The application was served on the Respondents by Sheriff Officer on 15 July 2021. Both parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 18 August 2021 at 10am and that they were required to participate.

3. The case called for a CMD on 18 August 2021 at 10am. The Applicant was represented by Mr Piggot, solicitor. The Respondents did not participate and were not represented.

Case Management Discussion

4. Mr Piggot advised the Legal Member that the Respondents remain in occupation of the property. There has been no recent contact with them although both he and the Applicant have attempted to contact them.
5. During the CMD, Mr Piggot lodged an updated rent statement which shows that no further payments have been made by the Respondents to the rent account since the application was submitted. He confirmed that the current sum owing is £4950. As the updated statement had not been lodged in advance of the CMD, and had therefore not been intimated to the Respondents, Mr Piggot advised that the Applicant did not seek to amend the application to increase the sum claimed. He confirmed that an order for payment was sought for the sum of £3150, as specified in the application. He also advised that interest was sought at the rate of 8% but made no submission in support of this rate of interest.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondents are the tenants of the property in terms of a private residential tenancy agreement.
8. The Respondents are due to pay rent at the rate of £450 per month.
9. The Respondents owe the sum of £3150 in unpaid rent to the Applicant.

Reasons for Decision

10. The tenancy is a private residential tenancy which started on 2 April 2018. The application to the Tribunal was submitted with a rent statement showing arrears of rent in the sum of £3150 as of 29 March 2021. An updated rent statement was provided at the CMD which shows that no payments have been made by the Respondents to the account since the application was lodged, and that the balance now owing is £4950. As this had been lodged late, and had therefore not been intimated to the Respondents, the Applicant's representative advised the Legal Member that the application was restricted to the sum specified in the application, which is still outstanding.
11. From the application and the information provided at the CMD, the Legal Member is satisfied that the Respondents owe the sum of £3150 in unpaid rent and that an order for payment should be granted for this sum. The Applicant also seeks interest at the rate of 8% from the date of the order, in terms

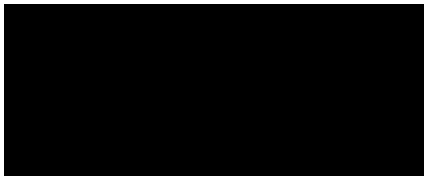
Regulation 41A of the Tribunal Procedure Rules. This provision stipulates that the Tribunal “may include interest” either at the rate specified in tenancy contract or as “ordered by the Tribunal”. No submissions were made in support of the rate of 8%. The Legal Member is not persuaded that interest at this rate is appropriate and determines that the Applicant should be entitled to interest at the rate of 3% on the principal sum from the date of the decision until the sum is paid.

Decision

- 12.** The Legal Member determines that an order for payment should be granted against the Respondents for the sum of £3150 together with interest at the rate of 3 per cent.

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, Legal Member

18 August 2021