



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/4087

Re: Property at F2 - 37 New Street, Rothes, Moray, AB38 7DQ (“the Property”)

Parties:

Eilander Limited, St David's, George Street, Bathgate, EH48 1PH (“the Applicant”)

Mr Jordan McNaught, F2 - 37 New Street, Rothes, Moray, AB38 7DQ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Four thousand five hundred and fifty pounds (£4550) Sterling together with interest at 8 per cent per annum from the date of decision until payment.

Background

- 1 By application to the Tribunal the Applicant sought an eviction order against the Respondent in respect of the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). In support of the application the Applicant provided the following documentation:-
 - (i) Private Residential Tenancy Agreement between the parties; and
 - (ii) Rent Statement.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject

the application. A Case Management Discussion was therefore assigned for the 29th March 2023 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondents by Sheriff Officers.

- 3 The Applicant subsequently submitted a request to amend the application to include ground 12A under Schedule 3 of the Private Housing Tenancies (Scotland) Act 2016 together with a rent statement confirming arrears exceeding six months rent. The said request was intimated upon the Respondent.

Case Management Discussion

- 4 The Case Management Discussion took place by teleconference on 29 March 2023. The Applicant was represented by Mr John Jarvie, Solicitor. The Respondent was present..
- 5 Mr Jarvie confirmed that the Applicant sought to amend the claim for rent arrears to reflect the current balance of £4550. There had been no payments in over a year. The Respondent confirmed that he accepted the arrears were due but was not in a position to offer any payments at this time. He was looking for employment and it would be his intention to start making payments once he was in receipt of an income again.

Findings in Fact and Law

- 6 The parties entered into a Private Residential Tenancy Agreement dated 10 July 2019;
- 7 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £350 per calendar month. Further in terms of Clause 8 the Applicant is entitled to charge interest of late payment of rent at the rate of eight per cent per year from the date on which rent is due until payment is made.
- 8 As at the date of the Case Management Discussion arrears in the sum of £4550 were outstanding.
- 9 The Respondent accepts that the arrears are due.
- 10 The Respondent is liable to pay the sum of £4550 to the Applicant under the terms of the said tenancy agreement between the parties together with interest at the rate of eight per cent per year from the date of this decision until payment.

Reasons for Decision

- 11 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. There were no substantive facts in dispute therefore the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved that required the hearing of evidence. The Respondent accepted that the rent arrears were due. The Tribunal was therefore satisfied that it could allow the Applicant's request for amendment of the application to reflect the current balance and thereafter made an order for payment in the sum of £4550 together with interest at the rate of eight per cent per annum from the date of decision until payment as per the terms of the tenancy agreement between the parties.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

R O'Hare

Legal Member/Chair

29 March 2023

Date