

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons 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/21/2761

Re: Property at 132A Bonnygate, Cupar, Fife, KY15 4LF (“the Property”)

Parties:

**New Belfort Ltd, Advantage Business Centre, 132-134 Great Ancoats Street,
Manchester, M4 6DE (“the Applicant”)**

Mr Colin McBeath, 132A Bonnygate, Cupar, Fife, KY15 4LF (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £6,135, with interest on all unpaid rent at the rate of 4% per annum from the date on which it fell due until the date of payment.

Background

By application, received by the Tribunal on 8 November 2021, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £5,145.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 20 November 2017 at a rent of £495 per month, and a Rent Statement showing arrears as at 1 October 2021 of £5,145. The Applicant’s representatives, TC Young, solicitors, Glasgow subsequently provided the Tribunal with an updated Rent Statement showing arrears as at 1 December 2021 of £6,135, and asked that the sum sought be increased to that figure. The Tenancy Agreement provided that the Applicant might charge interest on any unpaid rent at the rate of 8% per annum from the date on which it became due until paid

On 16 December 2021, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 6 January 2022. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 20 January 2022. The Applicant was represented by Ms Kirstie Donnelly of TC Young, solicitors, Glasgow, and Mrs Jill Edwards, one of the Applicant's Directors, was also present. The Respondent was not present or represented. The Applicant's representative told the Tribunal that no payments of rent had been received since the date of the application and requested an Order for Payment for £6,135, with interest at 8% per annum, as provided for in the Private Residential Tenancy Agreement between the Parties. This was her primary position on interest, but her secondary position was that the Tribunal should exercise its power to include in an Order for Payment a provision for interest at such rate as the Tribunal thought reasonable.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

The Tribunal was satisfied that the amount sought in the application, as amended to £6,135, had become lawfully due by the Respondent to the Applicant. The Tribunal noted the provision in the Tenancy Agreement for interest at 8% per annum on unpaid rent from the date on which it was due until the date on which it was paid, but was of the view that, in the current economic climate and having regard to the Bank of England Base Rate, which has been below 1% for more than a decade, including the entire duration of the tenancy, the interest clause in the Tenancy Agreement was unfair. The Tribunal decided to award interest at the rate of 4% per annum instead.

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.

George Clark

Legal Member/Chair

20 January 2022
Date