



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/22/4278

Re: Property at 2/5 33 Dalintober Street, Glasgow, G5 8JZ (“the Property”)

Parties:

Omar Ali, 10 Melfort Avenue, Glasgow, G41 5LQ (“the Applicant”)

Danielle Purves, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £4,170 with interest at the rate of 4% per annum from today’s date until payment.

Background

1. The Applicant submitted an application under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the Respondent.
2. By decision dated 15 December 2022, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 16 December 2022. The Tribunal assigned a CMD for 2 March 2023 a 10am.

4. On 26 January 2023, the Applicant's representative provided a report from a tracing agent indicating that the Respondent's whereabouts were unknown. The Tribunal adjourned the CMD administratively.
5. A CMD was assigned for 13 April 2023 at 10am. On 8 March 2023 the Tribunal served the application on the Respondent by advertisement on the Housing and Property Chamber website.

The case management discussion

6. The CMD took place by conference call. The Applicant was represented by Mr Gray. The Respondent did not join the conference call and the discussion proceeded in her absence. The Applicant's representative explained that a payment order has already been granted in relation to arrears which accrued from July 2014 to May 2022. The Applicant recovered possession of the property on 28 November 2022. A rent statement has been lodged which disclosed that the Respondent incurred further rent arrears from June to November 2022 amounting to £4,170. The Applicant's representative moved for a payment order to be granted for £4,170, together with interest.

Findings in Fact

7. The parties entered into a short assured tenancy which commenced 1 August 2012 and was renewed by tacit relocation.
8. The Respondent was obliged to pay rent at the rate of £695 per month, in advance.
9. The rent arrears due by the Respondent from June to November 2022 amounted to £4,170.

Reason for Decision

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent did not participate in the discussion and did not lodge any written submissions. The rent statement lodged demonstrated that there are arrears of rent due. There was nothing to indicate that the Respondent disputed the level of rent arrears shown on the rent statement. The Tribunal was satisfied that the sum of £4,170 is due to the Applicant in respect of rent arrears.
11. The Tribunal observed that the debt due by the Respondent has been outstanding for a significant period of time. It was noted that the tenancy agreement made provision for interest on late payment of rent. Specifically, clause 2 provides "...If the rent has not been paid within 7 days of becoming due, the Tenant will pay a late penalty of £30.00 and monthly interest at 4% above Bank Base Rate calculated from the date when the rent was due to the date of payment....." The Respondent therefore had notice that interest would be due in the event of late payment of rent. The Tribunal exercised its discretion

in terms of rule 41A and awarded interest on the sum due at the rate of 4% per annum from today's date until payment.

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.

Nicola Irvine

Legal Member/Chair

13 April 2023

Date