

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

Chamber Ref: FTS/HPC/CV/23/0167

Re: Property at 59 Longbar Ave, Glengarnock, Ayrshire, KA14 3BW (“the Property”)

Parties:

Mrs Jane Egan, 2 St Andrews Place, Grampian Way, Bearsden, G61 4SR (“the Applicant”)

Ms Ellie Scott, Mr Robert Barr, 2 Willow Wynd, Kilwinning, Ayrshire, KA13 6FJ; 2 Willow Wynd, Kilwinning, Ayrshire, KA13 6FJ (“the Respondents”)

Tribunal Members:

Andrew Upton (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents are liable to make payment to the Applicant in the sum of SIX THOUSAND AND THIRTEEN POUNDS (£6,013.00) STERLING.

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference call on 6 April 2023. The Applicant was present on the call, and supported by her husband, Martin Egan. The Respondents were neither present nor represented at the CMD.
2. This is an Application for payment by the Respondents to the Applicant of a sum said to have accrued as rent arrears for the period up to the lodging of the Application on 13 January 2023. The sum claimed is £6,013.

3. By email dated 30 March 2023, the Applicant emailed the Tribunal seeking to amend the Application to (i) increase the sum claimed to take account of rent arrears accrued since the lodging of the Application, and (ii) seek payment of other sums said to have become due by the Respondents to the Applicant. The proposed amendment comprises both (i) the raising of new issues in terms of Rule 14 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), and (ii) an amendment in respect of matters other than new issues in terms of Rule 14A of the Rules. In both cases, at least 14 days’ notice required to be given to the Respondents and was not. The Tribunal indicated to the Applicant that, if she wished to proceed with the amendment, then the Tribunal would require to fix a further CMD to allow the Respondents an opportunity to consider the amended Application and respond. The Applicant withdrew the request to amend.
4. The Applicant invited the Tribunal to grant the order for payment of £6,013 as claimed for. In terms of Rule 17(4) of the Rules, the Tribunal may do anything at a CMD that it may do at a Hearing. In terms of Rule 2, the Tribunal must have regard to the overriding objective to deal with proceedings justly when making a decision, including the need to avoid unnecessary delay.
5. The Respondents have received service of the Application. They have been afforded an opportunity to lodge written representations to dispute the allegations in the Application, and separately to appear at the CMD to dispute those allegations. The Respondents have chosen not to take up either of those opportunities. In the circumstances, the Tribunal concluded that the Respondents did not dispute the allegations in the Application.
6. Accordingly, the Tribunal was satisfied that a Hearing was not necessary and would only cause delay. The Tribunal granted the payment order in the sum of £6,013, which represents rent arrears owed by the Respondents to the Applicant for the period up to 13 January 2023.

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.

Andrew Upton

06/04/2023

Legal Member/Chair

Date

