



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/23/0475

Re: Property at 15D James Street, Ayr, KA8 0DJ (“the Property”)

Parties:

MR THOMAS JACKSON, MRS HAYLEY JACKSON, 15 FERNELY ROAD, SOUTHPORT, PR8 5AU (“the Applicants”)

MR GRAEME WILSON, 15D JAMES STREET, AYR, KA8 0DJ (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be granted against the Respondent for payment to the Applicants the sum of Ten Thousand Five Hundred and Fifty Pounds (£10,550)

Introduction

This is an application under rule 111 and section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the application and the Case Management Discussion (CMD) was effected upon the respondent by Sheriff Officers on 30 March 2023.

The CMD took place by teleconference on 5 May 2023 at 2.00 pm. The applicants were represented by Ms Kirstie Donnelly of TC Young Solicitors. The respondent failed to participate in the hearing.

Findings and Reasons

The property is 15D James Street, Ayr KA8 0DJ. The applicants are Mr Thomas Jackson and Mrs Hayley Jackson who are the landlords of the property. The respondent is Mr Graeme Wilson who is the tenant.

The parties entered into a private residential tenancy which commenced on 21 November 2020. The agreed rent in terms of the written lease was £400 per month.

This application seeks to recover arrears of rent. As at the time that the application to the tribunal was made, the sum of £9,750 was outstanding. A Rule 14A amendment application was made on 19 April 2023 which increased the sum to £10,550. This was accompanied by an up to date rent statement detailing the rent payments falling due and the outstanding balance. The tribunal found this a credible and reliable source of documentary evidence and attached weight to it.

The respondent has not opposed the application. He has made no application for a time to pay direction.

The applicant is entitled to recover arrears of rent due under and in terms of the lease. The respondent refuses or unreasonably delays to make payment of the sums due and, in the circumstances, a payment order is necessary.

The applicant also seeks interest. The judicial rate of 8% has no statutory basis for the tribunal. A rate in line with the use value of the money and the loss actually suffered by the applicant corresponding to the current borrowing rate can be justified. 4% per annum is an appropriate rate of interest to be imposed by the tribunal.

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.

R. Mill

5 May 2023

Legal Member/Chair

Date