



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) 2016

Chamber Ref: FTS/HPC/CV/23/0386

Re: Property at FLAT 9 1 Well Spring Close, Edinburgh, EH13 9FD (“the Property”)

Parties:

PFPC MMR 1 LP, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Ms Jade Elizabeth Aird, FLAT 9 1 Well Spring Close, Edinburgh, EH13 9FD (“the Respondent”)

Tribunal Members:

Rory Cowan (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of £9,725 should be granted.

- Background

By application dated 6 February 2023 (the Application), the Applicants sought a Payment Order for £7,250 against the Respondents relative to rent arrears in relation to the Property. It also sought interest at 4% per annum as well as “expenses if deemed appropriate”. Various supporting documents were lodged including the following:

- 1) Copy lease; and
- 2) Rent statement.

Following acceptance of the Application, a Case Management Discussion (CMD) was fixed to be heard by way of conference call on 12 June 2023 to be heard by way of conference call. By email dated 5 May 2023 the Applicants initiated an application to amend the claim amount to £9,725 along with an UpToDate rent schedule.

- The Case Management Discussion

At the CMD on 12 June 2023, the Applicants were represented by a Mr Kenneth Caldwell, solicitor. The Respondent did not appear, nor was she represented. Notwithstanding, the Tribunal was of the view that she was aware of the CMD and her requirement to attend and that if she failed to do so, the Application could be dealt with in her absence. Mr Caldwell made a motion under Rule 14A of the Tribunal's rules of procedure to amend the Application and the sum sought. That motion was granted. Mr Caldwell indicated that the current rent arrears were in fact £10,550, but any claim was restricted to the sum specified in the amendment application. He also sought interest on the basis of the Tribunal's discretion to grant same in term of Rule 41A. He confirmed there was no contractual interest clause. He confirmed that he was seeking expenses but was aware this may not be granted.

- Findings in Fact

- 1) The Applicants and Respondent entered into a tenancy agreement relative to the Property.
- 2) In terms of the tenancy agreement between the Applicants and Respondents rent is payable at the rate of £825 per calendar month in advance and due on the 1st of every month following the initial payment on 14 April 2022.
- 3) As at 5 May 2023, the Respondent is in rent arrears to the extent of £9,725.

- Reasons for Decision

Under the lease between the parties, the Respondent is due to pay rent relative to the Property at the rate of £825 per month. As at 5 May 2023 she was in arrears to the extent of £9,725. Having heard Mr Caldwell, the Tribunal consider it was reasonable to award interest in favour of the Applicants and that the rate of 4%, in the current climate, was a reasonable sum to so order. The Tribunal declined to award expenses. The power of the Tribunal to award expenses is limited to circumstances set out in Rule 40. That is where there has been unreasonable behaviour in the conduct of a case that has led to unnecessary or unreasonable costs being incurred. No such conduct was identified by Mr Caldwell, and not defending the Application could not amount to such conduct.

- Decision

That a payment order in the sum of £9,725 should be granted with interest at the rate of 4 per centum per annum from the date of the decision.

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.

Rory Cowan

Legal Member/Chair

Date 12 June 2023