



**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/20/0873**

**Re: Property at 27 Dellness Avenue, Inverness, IV2 5HE (“the Property”)**

**Parties:**

**Mr Stewart Morrison, 28 Queensgate, Inverness, IV1 1DJ (“the Applicant”)**

**Miss Catherine Welch, 53 Cranmore Drive, Smithton, Inverness, IV2 7SL (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member)**

**Decision (in absence of the Respondent)**

At the Case Management Discussion (“CMD”) the Applicant was not in attendance but was represented by Mrs Sarah-Ann Gow, Macleod & MacCallum. The Respondent was neither present nor represented.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**Background**

- The Applicant is the heritable proprietor of the Property.
- The Respondent was the tenant of the Property in terms of a Tenancy Agreement signed 4 June 2018 (“the Tenancy Agreement”).
- The start date of the tenancy is stated in the Tenancy Agreement to be 4 June 2018.
- The Tenancy Agreement is a Private Residential Tenancy Agreement under the Private Housing (Tenancies)(Scotland) Act 2016.
- In terms of the Tenancy Agreement the rent payable by the Respondent was stated to be £580 per month payable in advance on the 4<sup>th</sup> day of each month.

- The Respondent has vacated the Property.
- In the Application to the Tribunal the rent arrears claimed were £1,218.75.

## **The Case Management Discussion**

### **Submissions for the Applicant:-**

At the CMD the Applicant's Representative stated:-

- That the deposit of £680 paid in terms of the Tenancy Agreement had been repaid to the Applicant in full following an adjudication by the Tenancy Deposit Scheme into which the monies had been paid. The Respondent had not participated in that process and the deposit monies had not been sufficient to cover the cost incurred by the Applicant in cleaning, painting, clearing and dealing with damage to the Property.
- That the Rent Increase Notice was issued by First Class post to the Respondent on 27 February 2019 increasing the rent from £580 per month to £590 per month from 4 June 2019.
- That the Applicant seeks an order for payment against the Respondent with interest thereon from the date of the Tribunal's decision.

### **Reasons for Decision**

- There exists between the parties a Private Residential Tenancy.
- The Respondent is due outstanding rent.
- The Rent Increase Notice has not been properly served and is therefore ineffective. Whilst paragraph 4 of the Tenancy Agreement headed "Communication" had not been properly completed, the Rent Increase Notice had not been served by any of the permitted methods stated therein. Accordingly the rent payable by the Respondent throughout the duration of the tenancy was £580 per month which reduced the amount still due to the Applicant to £1,198.12.
- In terms of Rule 41A of Schedule Part 1 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations") the Tribunal may include interest when making an order for payment at the rate stated in the relevant tenancy agreement or as ordered by the tribunal and running from the date of the decision of the tribunal. There is no rate of interest prescribed in the Tenancy Agreement. The Tribunal considered a rate of interest of 2% per annum to be appropriate.
- The Respondent has had due intimation of this Application in terms of the Regulations.

### **Decision**

The Tribunal makes an order that the Respondent pays to the Applicant the sum of £1,198.12 with interest on that sum at 2% per annum from the date of this decision 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.**

Gillian Buchanan



**18 August 2020**

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**Legal Member/Chair**