



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/20/1081

Re: Property at 20d Tarbolton Road, Cumbernauld, G67 2AJ (“the Property”)

Parties:

Mrs Brenda Bernadette Sinclair, c/o Let Link (Bathgate) Limited, Unit 3 Waverley Industrial Estate, Waverley Street, Bathgate, West Lothian, EH48 8JA (“the Applicant”)

Mr Mark Robert Joseph Cook, 20d Tarbolton Road, Cumbernauld, G67 2AJ (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent be granted for payment of the sum of Sum of Four Thousand Two Hundred and Fifty Pounds (£4,250) to the Applicant

Introduction

This is an application under Rule 111 and Section 71 of the Private Residential (Tenancies) (Scotland) Act 2016.

The application seeks a payment order in respect of arrears of rent.

An initial Case Management Discussion (CMD) took place by teleconference on 20 August 2020. The application at that time was heard along with application reference FTS/HPC/EV/20/1080 in which an eviction order was sought under Rule 109 and Section 51 of the Act. The eviction order was made on that day and

this application seeking a payment order was continued so as to afford the applicant's representative the opportunity to lodge an amendment in terms of Rule 14A to increase the sum sought.

By way of email dated 4 September 2020, a Rule 14A application was made. This sought to increase the sum sought to £4,250. The applicant's agent also intimated the Rule 14A amendment to the respondent on 4 September 2020. The intimation requirements have been met.

The fresh CMD took place by teleconference on 14 October 2020 at 10.00 am. The applicant was represented by Miss Kirstie Donnelly of Messrs Bannatyne, Kirkwood France and Co.

The respondent did not participate in the CMD teleconference call. Details of the hearing was made to the respondent on 14 September 2020. There was no barrier to his participation. He did not participate in the earlier CMD on 20 August 2020. No written representations or submissions have been received following personnel service of the applications by Sheriff Officer on 30 July 2020.

FINDINGS AND REASONS

The property is 20d Tarbolton Road, Cumbernauld G67 2AJ.

The parties entered into a private residential tenancy which commenced on 3 October 2019. The rent was stipulated at £425 per calendar month.

Notice to leave dated 6 March 2020 was served upon the respondent. The basis of the notice was ongoing rent arrears for more than 3 months – ground 12.

The notice to leave expired. The respondent did not vacate the property. An eviction order was sought on the basis of the rent arrears. The eviction order was made by the Tribunal on 28 August 2020.

When the application for eviction order and application for payment order was made, the rent arrears outstanding were £2,125.

The respondent remains in occupation of the property as at the date of the hearing. It is planned to evict him on 31 October 2020.

Arrears of rent have now risen to a total of £4,250. The increased sum was amended by Rule 14 amendment timeously and was intimated upon the respondent. Fair notice of the sum sought has been given to the respondent. Additionally, fair notice has been given to the respondent of the applicant's wish to have interest applied to the sum sought.

The applicant is entitled to recover the rent legally due and outstanding in terms of the lease. The amount outstanding has not been challenged. The Tribunal attached

weight to the documentary evidence, including the detailed rent statement together with the submissions of the applicant's agent which are all credible, reliable and unchallenged.

The Tribunal makes a payment order in the sum of £4,250 together with interest at the rate of 3% per annum from the date of decision until payment. This rate of interest is similar to the borrowing rate for short-term commercial loans and 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.

Richard Mill

14 October 2020

Legal Member/Chair

Date