

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/2343

Re: Property at 7 Sunnyside, Kilmaurs, KA3 2RZ (“the Property”)

Parties:

Miss Benzie Dsa, 24 Simpson Drive, Saltcoats, KA21 6EX (“the Applicant”)

Mr David Speirs, 7 Sunnyside, Kilmaurs, KA3 2RZ (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £5250 with interest thereon at the rate of 3% above the Bank of England base rate.

Background

1. This is an application for an order for payment under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The application was received in the period between 6th November and 3rd December 2020. The Applicant lodged a rental statement with the application, showing rent arrears outstanding in the sum of £5250, and a copy of a private residential tenancy agreement between the parties pertaining to the Property that commenced on 2nd August 2019.
2. Sheriff Officers served notification of a Case Management Discussion scheduled for 22nd February 2021 on the Respondent on 19th January 2021.

Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 22nd February 2021. The Applicant was not in attendance and was represented by Ms Shannon Gaughan, Solicitor. Commencement of the CMD was delayed to allow the Respondent to attend. The Respondent was not in attendance.
4. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
5. Ms Gaughan outlined the background to the case, and moved for an order for payment in the sum of £5250. There was some discussion about the interest rate of 8% sought in the application. This was not provided for in the tenancy agreement, therefore interest was applied at the use value rate of 3% per annum above the Bank of England base rate.

Findings in Fact

6.
 - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 2nd August 2019 with an agreed rent of £350 per month.
 - ii. Rent lawfully due in terms of the tenancy was not paid by the Respondent.
 - iii. The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

7. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

8. An order for payment is granted in favour of the Applicant in the sum of £5250 with interest thereon at the rate of 3% per annum above the Bank of England base rate running from the date of the decision to grant the order 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.

Helen Forbes

Legal Member/Chair

22nd February 2021
Date