



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

Chamber Ref: FTS/HPC/CV/20/2469

Re: Property at 3/L, 159 Clepington Road, Dundee, DD3 7SN (“the Property”)

Parties:

Mr Stewart McIntosh, C/o 31A North Bridge Street, Bathgate, West Lothian, EH48 4PJ (“the Applicant”)

Mr Stephen Clark, 3/L, 159 Clepington Road, Dundee, DD3 7SN (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant(s):

Sum of ONE THOUSAND, SIX HUNDRED AND FIVE POUNDS AND TWELVE PENCE (£1,605.12) STERLING

- Background
- 1. An application dated 26 November 2020 was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a private residential tenancy agreement.

- The Hearing

2. A Hearing took place on 8 February 2021. The Applicant was represented by Ms Mathieson, solicitor. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 5 January 2021. The Tribunal was accordingly satisfied that the Respondent had been duly notified of the date and time of the Hearing and that the Hearing could proceed in the Respondent's absence.
3. A separate application by the Applicant seeking a repossession order against the Respondent under Rule 109 of the Rules and under case reference FTS/HPC/EV/20/2470 was heard at the same time.
4. The Applicant's representative moved for the order for payment to be granted in the sum of £1,605.12. The parties had entered into a Private Residential Tenancy Agreement. The Respondent had failed to make payment of rent due of £435 per month. The Respondent had removed from the property prior to the Hearing. At the time of submitting the application had fallen into arrears amounting to £870. On 21 January 2021 the Applicant sought to increase the sum sought to £1,740 in terms of Rule 14A of the Rules. The Respondent had thereafter removed himself from the Property and the Property had been repossessed at the end of January. The final balance of rent arrears due, following repayment of the security deposit, was £1,605.12.

- Findings in Fact

5. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced 8 March 2018;
 - (ii) In terms of Clause 8 of the Agreement, the Respondent was obliged to pay a monthly rent of £435 to the Applicant;
 - (iii) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £1,605.12.

- Reasons for Decision

6. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondent was obliged to make payment of rent in the sum of £435 per month under Clause 8 of the Agreement and had failed to do so. He had accrued arrears amounting to £1,605.12 and which fell lawfully due to be repaid to the Applicant.
7. The Applicant's representative also moved for interest to be granted on the sum sought. The Tribunal noted that there was no provision for contractual interest included in the Tenancy Agreement. The Applicant's representative referred to a claim for interest on a "use value" basis but was unable to refer to any authority for interest to be granted on this basis. Accordingly, the claim for interest was refused by the Tribunal.

- Decision

8. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of ONE THOUSAND, SIX HUNDRED AND FIVE POUNDS AND TWELVE PENCE (£1,605.12) STERLING

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.

Fiona Watson

Legal Member/Chair

Date: 8 February 2021