



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 (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/CV/21/1055

Re: Property at 911 Dumbarton Road, Dalmuir, West Dunbartonshire, G81 4LA (“the Property”)

Parties:

Mr Robert Kennedy, 9 Clarence Drive, Clydebank, West Dunbartonshire, G81 2DN (“the Applicant”)

Ms Karen Conway, 911 Dumbarton Road, Dalmuir, West Dunbartonshire, G81 4LA (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order in favour of the Applicant against the Respondent for payment in the sum of £5,360.27, plus interest thereon at the rate of 5% should be made.

Background

1. By application submitted on 5 May 2021 and thereafter amended, the Applicant sought a payment order of £5,360.27 against the Respondent in respect of rent arrears incurred in respect of the Property, plus interest thereon at the rate of 5%, in terms of Rule 111 of the Regulations.
2. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, a previous payment order granted by the Tribunal in case reference FTS/HPC/CV/20/0878 dated 24 September 2020 in respect of earlier arrears and a Rent Statement covering rent arrears

accruing since then, showing the balance owing as at 14 May 2021 as £5,360.27.

3. On 25 May 2021, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations. A copy of the Application and supporting documentation was served on the Respondent by Sheriff Officer, together with intimation of the date, time and location set for a Case Management Discussion. Written representations were to be lodged by 23 June 2021. No written representations were submitted by the Respondent.

Case Management Discussion

4. On 5 July 2021, at 2pm, the Applicant joined the telephone conference Case Management Discussion ("CMD"). He was accompanied by his step-daughter in the capacity of supporter/notetaker but she did not participate in any way in the CMD. The Legal Member delayed the start of the CMD for 5 minutes to see if the Respondent would join but she did not.
5. After introductions and introductory remarks by the Legal Member, the Applicant addressed the application and answered some questions from the Legal Member. The Applicant confirmed that the tenancy had commenced on 14 August 2019 and that the rent was £700 per calendar month. No rental payments have been made by the Respondent since December 2019. A dispute arose at that time as the Respondent claimed that Christmas presents that she had in the Property were damaged as a consequence of work carried out by a tradesman of the Applicant and the Respondent has not engaged with the Applicant or made any further rental payments since. The Applicant raised Tribunal proceedings last year for payment of rent arrears and an eviction order based on the rent arrears, both of which were granted on 24 September 2020. However, due to government restrictions relating to the Coronavirus pandemic, the Applicant has been unable to enforce the eviction order. The Respondent remained in the Property until vacating very recently and further rent arrears accordingly accrued between the period covered by the previous payment order and the tenant vacating. No payments have been made by the Respondent over this period and no payment proposals have been made by her. The Applicant confirmed that a tenancy deposit is held by My Deposit Scotland and that, although he has applied for full return of the deposit to him, he has not yet received this and does not yet know what amount he will get back. He is accordingly seeking an order for payment in the sum of £5,360.27, as per the Rent Statement lodged, plus interest at the rate of 5% which is the rate awarded by the Tribunal last year and which is considered reasonable in the current climate.

Findings in Fact

1. The Applicant is the joint owner and joint landlord of the Property.
2. The Respondent was the tenant of the Property from 14 August 2019 until on or around 14 May 2021 when the Respondent vacated.

3. The rent in terms of the tenancy is £700 per calendar month, payable in advance.
4. The Respondent initially made her due rental payments but the payments stopped in December 2019, with no further payments made since.
5. The Applicant obtained a previous payment order from the Tribunal dated 24 September 2020 in respect of rent arrears which had accrued as at that date.
6. The Applicant also obtained an eviction order from the Tribunal around that time but had been unable to enforce same due to Coronavirus restrictions so the Respondent remained in occupation of the Property.
7. Further rent arrears had accrued from 25 September 2020 until 14 May 2021 amounting to £5,360.27.
8. The Applicant has not been contacted by the Respondent and no explanation has been given for the continued non-payment of rent.
9. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this application. The Respondent did not attend the Case Management Discussion.
10. The sum sought by the Applicant of £5,360.27 in respect of further rent arrears incurred during the tenancy has not been paid by the Respondent.

Reasons for Decision

1. The Legal Member was satisfied from the information contained in the application and supporting documentation, together with the oral submissions made by the Applicant at the Case Management Discussion that the sum claimed in unpaid rent of £5,360.27 is due and resting owing by the Respondent. The Legal Member was further satisfied that the claim for interest thereon at the rate of 5% was reasonable in the circumstances of the case and in the current climate.
2. The Legal Member concluded that there being no information to the contrary from the Respondent that the matter did not require to go to an evidential hearing and that an order for payment of the sum and interest claimed should be made.

Decision

3. The Legal Member accordingly determines that an order for payment by the Respondent of the sum of £5,360.27, plus interest thereon at the rate of 5%, should be made in favour of the Applicant.

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.

N Weir

Legal Member

Date

5 July 2021