

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/21/1529

Re: Property at Flat 8, 67 Seagate, Dundee, DD1 2EH (“the Property”)

Parties:

Mr Iqbal Rahman, 12 Larch Street, Dundee, DD1 5NN (“the Applicant”)

Ms Anna Mickevica, Flat 8, 67 Seagate, Dundee, DD1 2EH (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

1. Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent for £4600 with interest at 3 percent from the date of the decision.

2. Attendance and Representation

This was a Case Management Discussion to consider the application dated 24th June 2021 brought in terms of Rule 111 (civil proceedings in relation to a Private Residential Tenancy) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended. The discussion took place by teleconference as a result of the restrictions required by the COVID-19 pandemic.

The Applicant was represented by Alex Campbell, Campbell Boath, Bank House, Stirling Street, Dundee, DD3 6PJ.

The Respondent was present.

3. Preliminary Matters

The Applicant’s representative referred to the updated rent statement lodged with the Tribunal on 29th July 2021 and intimated on the Respondent. The

Respondent confirmed she had received same. She had no objection to same. The Tribunal allowed amendment to the sum sought in the application to £4600.

4. Case Management Discussion

The Applicant's representative submitted that he was instructed to seek a payment order against the Respondent for £4600. He said the Respondent had not paid contractual rent since January 2021. The Applicant's representative sought interest in addition initially at eight percent from the date of decision but then changed his submission to three percent when in discussion with the Tribunal it was clear the Private Residential Tenancy did not include any terms specific to interest. He submitted this was reasonable in the absence of any contractual term.

The Respondent set out that she had no income and was relying on family help. She told the Tribunal further that she was unable to work due to ill health and was not able to apply for benefits. The Respondent accepted she owed rent arrears for £4600. She further told the Tribunal she was not in a position to make any offer to pay and could not complete a time to pay application. The Respondent did not agree to paying interest or fees

5. Findings in Fact

1. This Application is dated 24th June 2021 and brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicant is the heritable propriety of the property at Flat 8, 67 Seagate, Dundee, DD1 2EH.
3. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 2nd August 2020.
4. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
5. Rent payable under this tenancy was £600 per month.
6. As at 1st August 2021 the rent due by the Respondent to the Applicant was £4600. This was agreed by the Respondent.
7. The Tribunal considered it was appropriate in terms of Regulation 41A of the the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended to order having regard to the overriding objective interest on the sum of £4600 at the rate of three percent from the date of the decision.

6. Reasons for Decision

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Private Residential Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. Parties were in agreement to the amount of £4600 as the rent arrears due on 1st August 2021. The Tribunal was satisfied that the Respondent was in arrears of rent lawfully due and an up to date Rent Statement detailing this for the property had been lodged. The Tribunal noted there was no contractual liability for interest at the judicial rate. There was no contractual terms to seek legal costs for recovery against the Respondent and as such did not grant same. However the Applicant's representative submitted given the absence of interest terms he would seek interest at the amount of three percent only rather than the judicial rate. The Tribunal noted that interest was sought in the Application and in the interests of justice and having regard to the overriding objective the Tribunal in their discretion ordered interest at the lower rate of three percent from the date of the Order. The Tribunal was not persuaded there was any liability in the absence of contractual terms for legal costs. In terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £4600 against the Respondent with interest of three percent from the date of the Order.

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.



Legal Member: Karen Kirk

Date: 18th August 2021