



**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) Act 2016**

Chamber Ref: FTS/HPC/CV/21/2569

Re: Property at 28D Baldovan Terrace, Dundee, DD4 6LT (“the Property”)

Parties:

Mrs Shirley Berry, c/o 33 Albert Square, Dundee, DD1 1DJ (“the Applicant”)

Mr Alistair McKay, 28D Baldovan Terrace, Dundee, DD4 6LT (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of TEN THOUSAND TWO HUNDRED POUNDS (£10 200) STERLING with interest at 3% per annum from the date of this decision until payment. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an application dated 13 October 2021 made by the Applicant’s solicitor for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties, pre-action letters dated 12 March and 21 March 2021 with proof of delivery, letters dated 14 May 2021 and 12 August 2021 and a rent statement to September 2021 showing arrears of £9000
3. On 10 November 2021, the Tribunal accepted the application under Rule 9 of the Regulations.

4. On 18 November 2021 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 21 December 2021. The Respondent required to lodge written submissions by 9 December 2021. This paperwork was served on the Respondents by Dean Crane, Sheriff Officer, Livingston on 19 November 2021 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with the CMD on 21 December 2021 by way of teleconference. The Applicant was represented by Mr Campbell from Campbell Boath, solicitors. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD for both applications in his absence.
6. The Tribunal had before it the Private Rented Tenancy Agreement between the parties dated 29 April 2020, pre-action letters from the Applicant's solicitors dated 12 March and 21 March 2021 with proof of delivery, letters dated 14 May 2021 and 12 August 2021 and a rent statement.
7. The Application was heard together with the Applicant's action for eviction under case reference FTS/HPC/EV/21/2564.
8. Mr Campbell explained they were instructed by the Applicant's letting agents Martin and Company. With reference to the rent statement he pointed out that the Respondent had paid the first month's rent of £600 and the deposit of £600 at the start of the tenancy. A further payment of £600 was made on 1 June 2020. Although the rent statement showed a "reversal" figure of £600 on 9 July 2020 this was not to the detriment of the Respondent as it showed a reduction in arrears of £600. Mr Campbell thought this may be that the tenancy deposit was applied to the rent account although he confirmed when questioned by the Tribunal that the tenancy deposit had been lodged with a tenancy deposit scheme. The Respondent had not engaged with him to pay the arrears. He referred to the correspondence lodged. Arrears had increased to £10200 and he moved the Tribunal to grant an amendment to increase the sum sought from £9000 to £10200. He moved for an order for payment for £10 200 with interest at 3%.

Findings in Fact

9. The Applicant and the Respondent agreed by way of Clause 8 of a Private Residential Tenancy Agreement dated 29 April 2020 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £600.

10. The Respondent has fallen into arrears of rent. He has not made any payments towards rent since 1 June 2020 when he paid £600. The Applicant has made efforts to obtain payment of the arrears from the Respondent. The Respondent has ignored the Applicant's solicitor's correspondence. The arrears have increased to £10200 as at 21 December 2021.

Reasons for Decision

11. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Campbell. The Tribunal was satisfied that the sought be increased to £10200.
12. The Tribunal noted the content of the rent statement which showed the Respondent had last paid rent to the account on 1 June 2020. The Applicant produced evidence of persistent non- payment of rent with reference to the tenancy agreement, correspondence with the Respondent and the rent statement lodged. The Respondent had not disputed the application. He had ignored all attempts to engage. The Tribunal was satisfied on the basis of these documents, together with the Applicant's submissions that the order for payment in favour of the Applicant be granted. Further the Tribunal determined that the Applicant's request for interest was reasonable and accordingly awarded interest at 3% per annum.

Decision

13. The Tribunal granted an order for payment of £10200 with interest at 3% per annum from the date of the decision until payment. The decision of the Tribunal was unanimous.

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.

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21 December 2021

Legal Chair

Date