

**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/21/2720

Re: Property at 153 Forth Crescent, Dundee, DD2 4JA (“the Property”)

Parties:

Complementary Properties Ltd, 14 Esk Point, Dalkeith, EH22 1HW (“the Applicant”)

Miss Clara Anna Turner, 153 Forth Crescent, Dundee, DD2 4JA (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of one thousand seven hundred and twenty-five pounds (£1725.00) be made in favour of the Applicant and against the Respondent.

Background

1.This application for a payment order in terms of Rule 111 of the Tribunal rules of procedure was submitted to the Tribunal on 1st November 2021 and accepted by the Tribunal on 4th November 2021.A case management discussion was fixed for 14th January 2022 at 2pm.

Case Management Discussion

2.The case management discussion was attended by Mr Alasdair Bain on behalf of the Applicant and there was no appearance by or on behalf of the Respondent. Mr Bain requested that the Tribunal proceed in the absence of the Respondent and the Tribunal noted that the papers had been served by Sheriff Officers on 6th December

2021 by depositing these in the letterbox at the property. The Tribunal was satisfied that the Respondent had received appropriate notice of the case management discussion and that the case management discussion should proceed in her absence.

3.The Tribunal had sight of the Application, a tenancy agreement, a letter of authority to act, a rent in ledger, a bank statement search and several emails and letters sent to the Respondent. The Applicant 's representative had also lodged an up-to-date rent ledger and a bank statement. The rent ledger indicated that the rent arrears had apparently increased since the application had been lodged. Mr Bain was seeking to increase the sum requested by way of the payment order, but this request had not been intimated to the Respondent and the Tribunal had only received the information a few days before the case management discussion. The Tribunal legal member explained the procedural rules regarding amendment of the sum being claimed. After considering the position Mr Bain requested a payment order in the original sum stated in the application of £1725.

4.Mr Bain advised the Tribunal that no rent had been received from the Respondent since 5th August 2021 although one payment had been received from universal credit. Emails, letters and texts messages sent had elicited no response. Phonecalls did not receive an answer. The only information which Mr Bain had was that at the start of the tenancy on 5th May 2021 was that the Respondent had changed jobs. As there had been no contact the Applicant's representatives had applied to Universal credit for a payment and one such payment had been received. Mr Bain advised the Tribunal that he had no reason to think that the arrears were due to some failure in the payment of benefit, nor did he have any reason to think that the arrears would be cleared by universal credit payments in the future.

5.The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

6.The Applicant and Respondent entered into a private residential tenancy agreement at the property with effect from 5th May 2021 and this agreement continues.

7.The monthly rent payable in terms of the agreement is £575.

8.No rent has been paid by or on behalf of the respondent since 5th August 2021 other than one payment received from universal credit.

9.Letters, emails and texts sent to the Respondent have not been answered and no communication on the issue of rent arrears has been received from her by the Applicant's representative.

10.The Applicant's representative applied for and received one payment from universal credit, but this has not cleared the rent arrears.

11.Rent arrears at the start of November 2021 amounted to £1725.00.

12. Rent arrears in the sum of £1725.00 are lawfully due by the Respondent to the Applicant.

Reasons for Decision

The Tribunal was satisfied that rent arrears had accrued at the property and were lawfully due by the Respondent and that the Applicant's representative had contacted the Respondent a number of times on the subject of the arrears and had received no reply. The Applicant's representative had indicated that they wished to help her but in the face of no reply by her having made repeated attempts to contact her it seemed reasonable to grant a payment order.

Decision

The Tribunal made a payment order in the sum of £1725.00 in favour of the Applicant and against the Respondent.

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.

V. Bremner

Legal Member/Chair

14/1/22
Date
