



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/0544

Re: Property at 6 Orchard Place, Eliburn, Livingston, EH54 6RX (“the Property”)

Parties:

Ms Margaret Deans, 29 Cairns Gardens, Balerno, Edinburgh, EH14 7HJ (“the Applicant”)

Mr Craig Murphy, 6 Orchard Place, Eliburn, Livingston, EH54 6RX (“the Respondent”)

Tribunal Member:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £2,850.00 with interest at the rate of 8% per annum from the date on which each payment of rent fell due, until payment.

Background

1. An application was submitted on 23 February 2022 in terms of Rule 111 (Application for 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.
2. The Applicant sought an order for payment in the sum of £1,750.00, which represented arrears of rent said to have been incurred by the Respondent.
3. By decision dated 9 March 2022, a Convenor of HPC having delegated powers of the Chamber President, referred the application under Rule 9 of the Rules to a Case Management Discussion.

4. In support of her application, the Applicant produced a copy tenancy agreement, statement of rent and copies of some e-mail correspondence between the Applicant's representative and the Respondent.
5. The Tribunal intimated the application to the parties by letter of 30 March 2022 and advised them of the date, time and conference call details of today's case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 20 April 2022. No written representations were received by the Tribunal.
6. On 25 April 2022 the Applicant's representative submitted an application to increase the sum sued for to £2,850 and sought interest at 8% per annum on the sum due. The application to amend was accompanied by an updated rent statement.

The Case Management Discussion

7. The Applicant was represented by Miss Wooley. The discussion took place by conference call and proceeded in the absence of the Respondent. The Applicant's representative advised that the last contact made with the Respondent regarding rent arrears was on 7 December 2021 when the Respondent indicated that he would pay £700 per month towards arrears. The last payment made by the Respondent was on 22 December 2021. The Tribunal noted that a further updated rent statement was lodged on 11 May 2022, but the Respondent had not been given notice that any further application to increase the sum sued for may be made. The Applicant's representative moved for an order for payment in the sum of £2,850 together with interest at the rate of 8% per annum from the date each payment of rent fell due, until payment. She relied upon clause 8 of the tenancy agreement.

8. Findings in Fact and Law

- a. The Applicant and Respondent entered into a private residential tenancy which commenced on 7 July 2020.
- b. Rent due was £550 per calendar month, payable in advance.
- c. As at 7 April 2022, the Respondent had incurred rent arrears totalling £2,850.
- d. In terms of clause 8 of the tenancy agreement, the Applicant is entitled to interest at the rate of 8% per annum from the date on which the rent is due until payment is made.

Reasons for Decision

9. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising

from private residential tenancies. As this tenancy is a private residential tenancy the Tribunal has jurisdiction to determine the present application.

10. The Respondent failed to submit any written representations and failed to participate in the case management discussion.
11. The Applicant had produced an updated rent statement along with the application to increase the sum sued for. That application had been intimated to the Respondent. The Applicant's representative advised that there has been no further contact from the Respondent and no further payments to the rent account, beyond 22 December 2021. There was no material before the Tribunal to dispute the accuracy of the updated rent statement lodged.
12. In terms of clause 8 of the tenancy agreement, the Respondent is contractually bound to pay interest on the late payment of rent at the 8% per annum until payment.

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.

Nicola Irvine

Legal Member/Chair

17 May 2022
Date