



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/22/0884

Re: Property at 52 Phoenix Court, East Kilbride, Glasgow, G74 3RB (“the Property”)

Parties:

Mr Anthony Lappin, 7 Redwood Crescent, Cambusland, Glasgow, G72 7FY (“the Applicant”)

Mr John Paul Kelly Anderson, 52 Phoenix Court, East Kilbride, Glasgow, G74 3RB (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elizabeth Williams (Ordinary 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 £1,530.28 with interest at the rate of 3% per annum from the date of this decision until payment.

Background

1. An application was submitted dated 28 March 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 £1,086.70, which represented arrears of rent said to have been incurred by the Respondent.
3. By decision dated 13 April 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 his application, the Applicant produced a copy tenancy agreement, statement of rent and copy correspondence issued by the Applicant's representative to the Respondent.
5. The Tribunal intimated the application to the parties by letter of 17 May 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 7 June 2022. No written representations were received by the Tribunal.
6. On 13 June 2022 the Applicant's representative submitted an application to increase the sum sued for to £1,530.28 and sought interest 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 from the Respondent was in the form of an email to the Applicant's letting agent, advising that the Respondent had vacated the property on 17 June and had posted the keys. The Applicant sought a payment order in the sum of £1,530.28 with interest at 3% from the date of the decision until payment. It was submitted that it was reasonable to award interest, given the length of time the arrears have existed and the fact that there is no agreed payment plan. The Tribunal enquired whether any attempt had been made to seek payment from the guarantor, whose details are noted at clause 37 of the tenancy agreement. The Applicant's representative had no information to suggest that there has been any contact with the guarantor.

8. Findings in Fact and Law

- a. The Applicant and Respondent entered into a private residential tenancy which commenced on 13 February 2019.
- b. Rent due was £350 per calendar month, payable in advance.
- c. As at the date of this case management discussion, the Respondent had incurred rent arrears totalling £1,530.28.

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 in relation to rent arrears and no further payments to the rent account. There was no material before the Tribunal to dispute the accuracy of the updated rent statement lodged.
12. The Tribunal exercise discretion and in terms of Rule 41A and awarded interest of the sum due from today's date until payment at the 3% per annum.

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. I

27 June 2022

Legal Member/Chair

Date