



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/0997

Re: Property at 10 Flat 2, Academy Street, Glasgow, G32 9AA (“the Property”)

Parties:

Mr Paul Hibberson, 1 Tansy Close, Northampton, NN4 9XW (“the Applicant”)

Mr Mohammed Abnan Ali Irshad, 10 Flat 2, Academy Street, Glasgow, G32 9AA (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Frances Wood (Ordinary Member)

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a payment order in the sum of Seven thousand eight hundred and seventy five pounds and seventy five pence (£7875) Sterling

Background

- 1 By application to the Tribunal the Applicant sought a payment order against the Respondent in relation to rent arrears. In support of the application the Applicant provided the following documentation:-
 - (i) Private Residential Tenancy Agreement between the parties;
 - (ii) Rent Statement; and
 - (iii) Bank Statements.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore

assigned for the 6 October 2022 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

Case Management Discussion

- 3 The Case Management Discussion took place on 6 October 2022. The Applicant was present. The Respondent was not in attendance. The Tribunal noted that he had been served with the application paperwork together with notification of the date and time of the Case Management Discussion and therefore determined to proceed in his absence.
- 4 The Applicant advised that he had submitted a separate application for eviction against the Respondent. The arrears continued to accrue. Following discussion the Tribunal agreed to adjourn the Case Management Discussion to enable the two applications to be conjoined and for the Applicant to seek an amendment to the sum sought to reflect the updated arrears figure.
- 5 On 2 November 2022 the Applicant submitted an updated rent statement showing arrears of £6975 as at that date. A copy of his request for amendment was intimated upon the Respondent.
- 6 On 4 January 2023 the Applicant submitted a further rent statement showing arrears of £7875 as at that date. A copy of his request for amendment was intimated upon the Respondent.
- 7 The second Case Management Discussion took place by teleconference on 13 January 2023. The Applicant was present. The Respondent was not in attendance. The Tribunal noted that he had received notification of the adjourned Case Management Discussion and therefore determined to proceed in his absence.
- 8 The Applicant advised that the arrears had increased to £7875. No payments had been made to the rent account since September 2021. Despite attempts to contact the Respondent he had failed to engage.

Findings in Fact and Law

- 9 The parties entered into a Private Residential Tenancy Agreement dated 21st May 2021 which commenced on 22nd May 2021.
- 10 In terms of Clause 7 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £450 per calendar month.
- 11 As at 4 January 2023 arrears in the sum of £7875 were outstanding.

- 12 The last payment to the rent account by the Respondent was on 7 September 2021.
- 13 Despite repeated requests the Respondent has refused or delayed in making payment of the rent due to the Applicant.
- 14 The Respondent is therefore liable to pay the sum of £7875 to the Applicant.

Reasons for Decision

- 15 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. There were no substantive facts in dispute therefore the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved that required the hearing of evidence. The Respondent had been given the opportunity to participate in the proceedings but had chosen not to do so.
- 16 The Tribunal was satisfied based on its findings in fact that the Respondent had a contractual obligation to make payment of the sum of £450 per month in rent and had failed to do so. This had resulted in an arrears balance of £7875. There was nothing before the Tribunal to contradict the position put forward by the Applicant.
- 17 The Tribunal further determined that it could exercise its discretion under Rule 16A of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedural Rules 2017 as amended in order to dispense with the fourteen day period for requesting amendment of the sum sought in order to allow the sum to be increased to the current balance of arrears of £7875. The Tribunal considered this reasonable in the particular circumstances of this case, in light of the Respondent's failure to engage and the prolonged history of arrears.
- 18 The Tribunal therefore determined to make an order for payment in the sum of £7875.
- 19 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.

Ruth O'Hare

13 January 2023

Legal Member/Chair

Date