



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/22/2074

Re: Property at 7 Swallowtail Court, Dundee, DD4 0LX (“the Property”)

Parties:

Mr George Kwek, Heatherbank, Auchmuir Bridge, By Leslie, Fife, KY6 3JD (“the Applicant”)

Mr Ian McDonald, 7 Swallowtail Court, Dundee, DD4 0LX (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £6725.00 be made in favour of the Applicant.

1. Background

- 1.1 This is an application relating to a private residential tenancy agreement between the parties for a payment order in respect of sums of rent allegedly unpaid by the Respondent.
- 1.2 The application was accompanied by copies of the written tenancy agreement, a notice to leave served on the Respondent on 14 December 2021, pre-action letters sent to the Respondent and a rent statement.

1.3 The application was conjoined with application reference FTS/HPC/EV/22/2075 and the decisions should be read in conjunction with each other.

2. The Case Management Discussion

2.1 The Case Management Discussion took place on 14 November 2022 by teleconference. The Applicant was represented by Mr Buchan of Thorntons solicitors. The Respondent was neither present nor represented.

2.2 Mr Buchan confirmed that the application was insisted upon and that the Tribunal ought to proceed in the absence of the Respondent. The Tribunal noted that service of the conjoined applications and notice of the Case Management Discussion had been given to the Respondent by Sheriff Officer on 7 October 2022. Accordingly, the Tribunal considered it appropriate to proceed in the Respondent's absence as permitted by Rule 29 of the Chamber Rules.

2.3 Mr Buchan firstly addressed the discrepancy in the rent statement. Due to a clerical error, £415.00 had required to be credited to the rent account on 4 August 2022. The sum specified in the notice to leave as being outstanding and that in the application at the time it was lodged was therefore overstated to the extent of £415.00. The arrears were substantial and were currently £8285.00 as of 11 November 2022. The sum sought was restricted to £6725.00 as no notice had been given to the Respondent to increase that sum.

3. Reasons For Decision

3.1 The Tribunal considered the application and accompanying documentation, together with the submissions made by the Applicant's representative. Given the material before it, the Tribunal considered it could determine the application without the need for a hearing, as permitted by Rule 19 of the Chamber Rules.

3.2 The Tribunal noted that the monthly rent payable by the Respondent was £395.00. The statement, with the correction, demonstrated the extent of the sum which had gone unpaid. In the absence of any representations by the Respondent as to why the sum sought was not due, the Tribunal granted the order sought.

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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Legal Member/Chair

14 November 2022
Date