



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/22/2188

Re: Property at 7 Arran Drive, Paisley, PA2 8JB (“the Property”)

Parties:

Mr Paul Coyle, 32 Baird Hill, East Kilbride, G75 0ED (“the Applicant”)

Ms Georgia Fraser, 7 Arran Drive, Paisley, PA2 8JB (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an order for payment of arrears of rent alleged to be owed by the Respondent to the Applicant in terms of her assured tenancy of the Property. It called for a case management discussion (‘CMD’) at 10am on 18 October 2022, by teleconference. The Applicant was represented on the call by Ms Donnelly of TC Young, solicitors. The Respondent did not call in and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical difficulty she may have been experiencing, but there was not contact from her.

Notice of the CMD was served on the Respondent by sheriff officers on 1 September 2022. The Tribunal were satisfied that the Respondent was aware of the CMD, but had chosen not to attend, and that it was therefore fair to proceed in her absence.

- Findings in Fact

1. The Respondent lets the Property from the Applicant in terms of an assured tenancy with a date of entry of 2 August 2012.
2. In terms of the tenancy agreement, rent of £450 was due at the date of entry on the second day of each month thereafter.
3. As at 2 September 2022, the Respondent owed arrears of rent of £11,591.63.
4. There is no provision in the tenancy agreement for interest to be charged at a particular rate on any late payment.

- Reasons for Decision

5. On 14 September 2022, the Applicant intimated an application to amend the sum sought in this application to £11,591.63 on the Respondent and the Tribunal. A further application to amend was intimated on the Respondent on 3 October 2022: but was not intimated to the Tribunal until 14 October 2022. The second application was not therefore made in accordance with the requirements of rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('the Rules'). The Applicant accepted this and withdrew the second application. The Tribunal granted the first application.
6. The sum sought as amended was due, so the Tribunal granted the order for payment of that amount.

7. The Applicant also requested that the Tribunal include interest on the sum awarded in the order at 3% per annum. Rule 41A of the Rules allows such an award to be made either at the rate stated in the tenancy agreement, or as ordered by the Tribunal. The application requests that an award of interest be made: but does not specify what rate is sought. There is no rate of interest specified in the tenancy agreement. In these circumstances, the Tribunal was not satisfied that the Respondent had received fair notice of the request for interest to applied and it therefore declined to do so.

- Decision

Order made for payment by the Respondent to the Applicant of the sum of £11,591.63 (ELEVEN THOUSAND, FIVE HUNDRED AND NINETY-ONE POUNDS AND SIXTY-THREE PENCE STERLING).

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.

Legal Member: Mr Nairn Young

Date: 18/10/2022