



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/22/2630

Re: Property at 3 Etive Gardens, Dundee, DD2 4JQ (“the Property”)

Parties:

Mrs Jacqueline Gardyne, Smithy House, North Dronley Road, Auchterhouse, Dundee, DD3 0QL (“the Applicant”)

Mr Craig Penman, 3 Etive Gardens, Dundee, DD2 4JQ (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is liable to make payment to the Applicant in the sum of FIVE THOUSAND FIVE HUNDRED POUNDS (£5,500.00) STERLING, with interest thereon at the rate of 4.5% per annum from 15 November 2022 until payment.

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference call on 15 November 2022. The Applicant was represented by Mr Gray, solicitor. The Respondent was neither present nor represented.
2. In this Application, the Applicant seeks payment of a sum said to be due as rent arrears, together with interest thereon. At the date of raising the Application, the arrears said to be due were £4,300. In advance of the CMD, the Applicant’s representative moved the Tribunal to increase the sum sued for to £5,900 to reflect the up to date arrears position. By further email dated 8 November 2022, the Applicant’s representative moved the Tribunal to instead amend the sum claimed to £5,500, to reflect that the Respondent had in fact

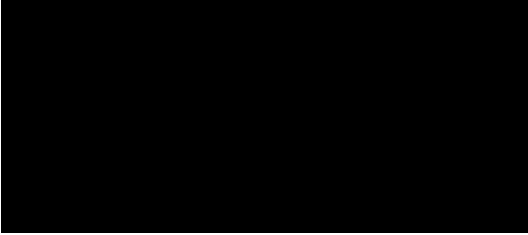
vacated the Property earlier than previously thought. At the CMD, Mr Gray invited the Tribunal to allow the amendment. The Tribunal did so.

3. Thereafter, Mr Gray invited the Tribunal to grant the order claimed for.
4. In terms of Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, the Tribunal may do anything at a CMD that it may do at a Hearing, including make a Decision. In terms of Rule 2, the Tribunal must have regard to the overriding objective to deal with proceedings justly when making a decision; including by avoiding unnecessary delay.
5. The Respondent has received service of the Application and notice of the CMD, but has chosen not to lodge written representations disputing the Application, nor to attend the CMD to dispute the Application. In the circumstances, the Tribunal is satisfied that the Respondent does not dispute the Application. Putting the matter out to a Hearing would only cause unnecessary delay.
6. For those reasons, the Tribunal was satisfied that the Respondent is under contractual obligation to make payment to the Applicant in the sum of £5,500.
7. Separately, the Applicant seeks payment of interest on that sum at a rate considered by the Tribunal to be reasonable. In terms of Rule 41A, the Tribunal may include interest when making an order for payment at a rate either (a) stated in the tenancy agreement, or (b) ordered by the Tribunal. There did not appear to be any rate specified in the tenancy agreement. The Tribunal was invited to consider what a reasonable rate of interest would be.
8. The Tribunal had regard to the period over which the arrears had accrued, which was eighteen months. The Tribunal considered that the award of interest ought to reflect the Applicant's loss of opportunity to invest those sums during that period, in addition to accruing on the sum awarded until it is paid. For those reasons, the Tribunal considered that the sum of 1.5% above the Bank of England base rate was a fair and reasonable rate of interest to apply in the circumstances.
9. Accordingly, the Tribunal granted a payment order in the sum of £5,500 with interest thereon at the rate of 4.5% from 15 November 2022 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.



15th November 2022

Legal Member/Chair

Date