



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.

Chamber Ref: FTS/HPC/CV/22/4160

Re: Property at 20 A Crown Street, Aberdeen, AB11 6AY (“the Property”)

Parties:

Mr Stuart Tawse, 2 Mackie Place, Aberdeen, AB10 1PF (“the Applicant”)

Mr Moyu Chen, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Helen Barclay (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 for £8625 with interest at 7 percent per annum from the date of the decision until payment.

Introduction

This Case Management Discussion (CMD) concerned an Application in relation to Civil Proceedings in connection with a Private Residential Tenancy under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference.

1. Attendance and Representation

John Jarvie, Bannatyne Kirkwood France & Co 16 Royal Exchange Square Glasgow, G1 3AG attended for the Applicant.

The Respondent was not present. He had been served by Sheriff Officer on the 14th December 2022. The Sheriff Office intimation of service raised the

possibility that the Respondent may not be living in the property. On this basis the Tribunal also served on the Respondent by Advertisement.

2. Preliminary Matters.

The Applicant's representative sought to amend the sum in the application to £8625. He confirmed the updated rent statement and request to amend had been intimated upon the Respondent on 26th Jan 2023. The Tribunal allowed the amendment.

The Applicant's representative said there had been no contact with the Respondent for a year and that all the emails and letters had all gone unanswered. The email address in tenancy agreement was used for intimation of the amendment and this went unanswered.

There were no other preliminary matters raised.

3. Case Management Discussion

The Applicant's representative set out that the Applicant sought a payment order for £8625.

The Applicant's representative further submitted that interest was sought at 3% per cent per anum above the base rate currently at 4 per cent. This was in light of the level of the debt owed and the time since the debt accrued. The submission further was that there was financial prejudice to Applicant and the interest sought was reasonable.

1. Findings in Fact

1. This Application is dated 6th October 2022 and brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicant's is the heritable propriety of the property at 20A Crown Street, Aberdeen, AB11 6AY. .
3. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 29th October 2018.
4. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
5. Rent payable under this tenancy was £750 per month.
6. As at the rent statement lodged on 26th January 2023 the rent due by the Respondent to the Applicant was £8625.
7. The Tribunal considered it was appropriate in terms of Regulation 41A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure)

Regulations 2017, as amended to order having regard to the overriding objective interest at the rate of three percent on the current case rate of 4 per cent per annum from the date of the decision.

2. Reasons for Decision

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Private Residential Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the Respondent was in arrears of rent lawfully due and an up to date Rent Statement detailing this for the property had been lodged. In terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of 8625 against the Respondent with interest of seven percent from the date of the Order.

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.

K Kirk

9th February 2023

Date