



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

Chamber Ref: FTS/HPC/CV/22/4353

Re: Property at 70 Alyth Drive, Polmont, FK2 0YW (“the Property”)

Parties:

Jane Watson, 10 Woodhill Road, Blackridge, West Lothian, EH48 3RN (“the Applicant”)

Christopher Fitzpatrick, 70 Alyth Drive, Polmont, FK2 0YW (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant:

SUM OF THREE THOUSAND AND FORTY POUNDS (£3040) STERLING with Interest thereon at the rate of four per cent per annum (4%) running from the date of the decision of the First-tier Tribunal to grant this order, being 20 February 2023, until payment.

- Background
- 1. An application was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

("the Rules"), seeking a payment order against the Respondent in relation to rent arrears accrued under a private residential tenancy agreement.

- The Case Management Discussion

2. A Case Management Discussion ("CMD") took place on 20 February 2023 by conference call. The Applicant was personally present and represented herself. The Respondent did not attend nor was he represented. The papers had been served on the Respondent by Sheriff Officer on 6 January 2023. The Tribunal, was satisfied that the Respondent had received notification of the CMD and that the CMD could proceed in his absence.
3. A separate application by the Applicant seeking a repossession order against the Respondent under Rule 109 of the Rules and under case reference FTS/HPC/EV/22/4351 was heard at the same time.
4. The Applicant moved for the order for payment to be granted in the increased sum of £3,040. The parties had entered into a Private Residential Tenancy Agreement. The Respondent had failed to make payment of rent since December 2021 and at the time of submitting the application had fallen into arrears amounting to £4,940. Since submitting the application, the arrears had increased to £5,700. A previous order for payment was granted by the tribunal against the Respondent in favour of the Applicant, in September 2022 in the sum of £2,660. The Applicant sought an award of the balance due to date of £3,040. The Applicant had submitted an email of 6 February 2023 to the tribunal stating the increased sum and that she intended to move for same at the CMD. A copy of that email was intimated on the Respondent by letter. The tribunal was satisfied that the terms of Rule 14A of the Rules had been met, in so far as intimating an intention to amend the sum sought.

- Findings in Fact

5. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced 21 August 2020;
 - (ii) In terms of Clause 8 of the Agreement, the Respondent was obliged to pay a monthly rent of £380 to the Applicant;
 - (iii) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £5,700.

- Reasons for Decision

6. The Tribunal was satisfied that the Applicant was entitled to an order in the sum of £3,040. The Respondent was obliged to make payment of rent in the sum of £380 per month under Clause 8 of the Agreement and had failed to do so. He had accrued arrears amounting to £5,700 and which fell lawfully due to be repaid to the Applicant. A previous order for payment had been granted in favour of the Applicant in the sum of £2,660. The sum of £3,040 represented the balance due.

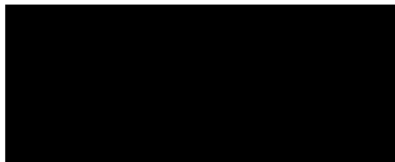
- Decision

7. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment of the undernoted sum to the Applicant:

Sum of THREE THOUSAND AND FORTY POUNDS (£3,040) STERLING with Interest thereon at the rate of four per cent per annum (4%) running from the date of the decision of the First-tier Tribunal to grant this order, being 20 February 2023, 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.



Legal Member

Date: 20 February 2023