



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/0294

Re: Property at 40 Drumdevan Road, Inverness, IV2 4DD (“the Property”)

Parties:

Mrs Anne Hay, Mr Ian Hay, 22 Plasmon Mill Court, Forres, IV36 1BN (“the Applicant”)

Mr David Skinner, Mrs Jeanette Skinner, 40 Drumdevan Road, Lochardil, Inverness, IV2 4DD (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Fifteen thousand and six hundred pounds (£15,600) Sterling together with interest at 4 per cent per annum above the Bank of England base rate from the date of decision until payment.

Background

- 1 By application to the Tribunal the Applicants sought an order for payment against the Respondents in respect of rent arrears. In support of the application the Applicants provided a Written Decision under Tribunal reference FTS/HPC/EV/22/2935, a rent statement and emails from the Respondents dated 9 February 2022 and 1 July 2022.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for the 16th May 2023 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the

Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondents by Sheriff Officers. No written representations were received in response.

Case Management Discussion

- 3 The Case Management Discussion took place by teleconference on 29 March 2023. The Applicant was represented by Mr Swarbrick, Solicitor. The Respondents were not in attendance. The Tribunal noted that they had been served with the application paperwork including the date and time of the Case Management Discussion and instructions for joining the teleconference. Mr Swarbrick confirmed that the papers had been served on the 8th March 2023 and the property had been repossessed on the 18th April 2023, therefore it could be assumed that they were still in occupation when notification was served. On that basis the Tribunal determined to proceed in their absence.
- 4 Mr Swarbrick confirmed that the application for a payment order had followed an earlier application for an eviction order. This had been granted by the Tribunal in January 2023. The Respondents had not attended the proceedings and the application had not been contested by them. Mr Swarbrick confirmed that the property had been repossessed on the 18th April. It was noted that the second named Respondent had hospital appointments during that period, which was one of the reasons why the eviction had been delayed. When the property was recovered it was noted that there was still food in the kitchen and damp washing in the washing machine. Accordingly the indication was that any departure by the Respondents prior to 18th April had been recent.
- 5 Mr Swarbrick confirmed that this was a private residential tenancy that had been set up inadvertently by the Applicants. They did not have legal advice at the time. They had to get registered as private landlords during the pandemic. Mr Swarbrick confirmed that the Respondents had paid rent between April 2018 and November 2020, however rent had stopped in December 2020 and nothing had been paid since. The rent had been agreed at £600 per month and Mr Swarbrick made reference to emails from the Respondents where they accepted this. They had offered to make payment arrangements in respect of the arrears and to ensure payment of universal credit towards the rent however this was never paid. The arrears stood at £15,600 when the eviction order was granted and this was the sum sought by the Applicants. Mr Swarbrick confirmed that a contract was in place for payment of the rent at the rate of £600 per month and the arrears were therefore due to be paid by the Respondents. The Applicants also sought interest at the rate of four per cent per annum above the Bank of England base rate.

Findings in Fact and Law

- 6 The parties entered into a Private Residential Tenancy Agreement which commenced in February 2018;

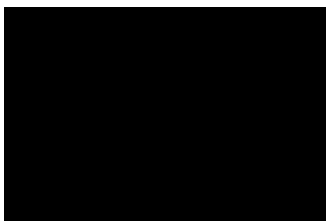
- 7 In terms of the agreement between the parties the Respondents undertook to pay rent at the rate of £600 per month.
- 8 The Respondents paid rent between April 2018 and November 2020. The Respondents have paid nothing since December 2020.
- 9 As at January 2023 rent arrears in the sum of £15,600 are outstanding.
- 10 The Respondents are liable to pay the sum of £15,600 to the Applicants in terms of the agreement between the parties.

Reasons for Decision

- 11 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. There were no substantive facts in dispute therefore the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved that required the hearing of evidence. The Tribunal was satisfied that the Respondents had contracted with the Applicants to pay rent at the rate of £600 per month and had accrued arrears in the sum of £15,600. There was nothing before the Tribunal to contradict the position put forward by the Applicants in that respect.
- 12 The Tribunal was further satisfied that it could make an award of interest at the rate of four per cent per annum above the Bank of England base rate from the date of decision until payment.
- 13 The Tribunal therefore made an order for payment in the sum of £15,600 together with interest at the rate of four per cent per annum above the Bank of England base rate from the date of decision 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.



16 May 2023

Legal Member/Chair

Date