



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to an Assured Tenancy under Rule 70 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/23/0583

Re: Property at 11 Seaview Road, Buckie, Banffshire, AB56 1QY ("the Property")

Parties:

Mr Neil Stables, 76 Mitre Road, Glasgow, G14 9LL ("the Applicant")

Miss Susan Smith, 11 Seaview Road, Buckie, Banffshire, AB56 1QY ("the Respondent")

Tribunal Members:

Yvonne McKenna (Legal Member) and Mike Scott (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an Order for Payment be granted in the sum of £1293.75 with Interest thereon at the rate of 4.25% per annum running from the date of the decision of the First-tier Tribunal to grant this order, being 27 April 2023, until payment.

Background

1.This was an application for a payment order dated 23 February 2023 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Housing (Scotland) Act)of The First-tier Tribunal for Scotland Housing and Property Chamber)Procedure) Regulations 2017 as amended.('The Rules')

2. The Applicant initially sought in his application payment of arrears in rental payments of £1006.25 together with interest from the date of decision in relation to the Property from the Respondent, and provided with his application a copy of the Short Assured Tenancy Agreement and a rent arrears statement.

3. By Notice of Acceptance of Application dated 22 March 2023 a 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 assigned for the 27 April 2023 to take place by teleconference due to the restrictions imposed by the Covid-19 pandemic. 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 on 24 March 2023.

4. The application was conjoined with an application for an Order for Possession under reference FTS/HPC/EV/23/0582.

5. No written representations had been lodged by the Respondent in advance of the Case Management Discussion.

6. On 13 April 2023 the Tribunal received an application to amend the sum claimed under Rule 14A of the Rules as the arrears had increased since the application was lodged with the Tribunal. The application to amend had been validly served on the Respondent. The sum sought amounted to £1293.75. An updated rent statement accompanied the application.

Case Management Discussion

7. The Case Management Discussion took place by teleconference on 27 April 2023 at 10am. The Applicant was represented by Mr John Jarvie. The Respondent was present.

8. The Tribunal explained the purpose of the Case Management Discussion and the legal test, and asked Mr Jarvie to address it on the Applicant's position.

9. Mr Jarvie submitted that the arrears were now £1293.75 and referred the Tribunal to the updated rent statement. He requested to amend the sum

claimed in the application to that figure. The Respondent accepted that this sum represented the current amount outstanding. In the circumstances the Tribunal considered that it would consent to the amendment.

10. The Tribunal was invited to grant the order for payment in the amount of £1293.75 with interest from the date of the Tribunal's decision until payment in terms of Rule 41A of the Rules. Mr Jarvie submitted that interest should be at the rate of 3 per cent above the base rate to recompense the Applicant for the financial prejudice he had suffered over the period of the duration of the arrears.

Findings in Fact

11. Parties entered into an assured tenancy that commenced on 30 October 2017 with rent due in the sum of £575 per month.

12. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.

13. The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

14. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

15. It appeared to the Tribunal to be just to award interest at a rate representing the investment or borrowing rate of lending banks for short-term loans, which is currently 4.25%, and the Tribunal accordingly did so.

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.

Yvonne McKenna

27 April 2023

Legal Member/Chair

Date