



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/23/0618

Re: Property at 26 Mount View, Dreghorn, KA11 4AS (“the Property”)

Parties:

Mr John Robb, 165 A Main Street, Dreghorn, KA1 4AF (“the Applicant”)

Mr Alessandro Gavazzeni, Miss Gayle Young, 12 Lawfield Avenue, West Kilbride, KA23 9DF (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £7571.45.

Background

1. By application date 20 February 2023 the applicant’s representatives, Stewart Residential, Stewarton applied to the Tribunal for an order for payment by the Respondents in respect of alleged rent arrears arising from the Respondents tenancy of the property. The Applicant’s representatives submitted a rent statement, a copy of the tenancy agreement and copy emails in support of the application.
2. By Notice of Acceptance dated 12 April 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 22 May 2023

The Case Management Discussion

4. A CMD was held by teleconference on 21 June 2023. The applicant did not attend but was represented by Mrs Sharon McCourt. The Respondents did not attend nor were they represented. The Tribunal being satisfied that proper intimation of the CMD had been given to them determined to proceed in their absence.
5. Mrs McCourt confirmed that the sum of £7571.45 of rent remained outstanding. She referred the Tribunal to the rent statement submitted with the application. She explained that although the Respondents' deposit had been paid to the Applicant this had been to cover damage to the property which had been in the region of £15000.00. Mrs Mc Court said that in her 20 years of experience in the property business the condition the Respondents had left the property in was the worst she had seen.
6. Mrs McCourt asked the Tribunal to grant the order with interest. She accepted that the tenancy agreement made no provision for interest but that given the length of time the Applicant had to wait to recover the property and the condition it had been left in and the cost to restore it and the expense incurred to remove the Respondents from the property it would be reasonable to apply interest to the order.

Findings in Fact

7. The parties entered into a Private Residential Tenancy that commenced on 29 June 2020 at a rent of £550.00 per calendar month.
8. At the end of the tenancy the Respondents owed rent of £7571.45.
9. The Tenancy agreement made no provision for interest to be paid on any unpaid rent.

Reasons for Decision

10. The tribunal was satisfied from the documents produced and from the oral submissions that the parties entered into a Private Residential Tenancy that commenced on 29 June 2020 at a rent of £550.00 per calendar month.
11. The Tribunal was satisfied from the documents produced and the oral submissions that at the end of the tenancy the Respondents owed rent of £7571.45 and that the Applicant was entitled to an order for payment in that amount. As the tenancy agreement made no provision for the payment of interest on any unpaid rent and the award of interest on the sum claimed in terms of Rule 41A of the Tribunals Rules of Procedure is at the discretion of the Tribunal, the Tribunal having considered the Applicant's representative's submission refuses the application for interest.

Decision

12. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £7571.45.

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.



21 June 2023

Legal Member/Chair

Date