



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) 2016 Act

Chamber Ref: FTS/HPC/CV/23/1215

Re: Property at 16/5 Saltire Street, Edinburgh, EH5 1PT (“the Property”)

Parties:

Places For People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Jason Williamson, 16/5 Saltire Street, Edinburgh, EH5 1PT (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £9,664.93 with interest at 4% per annum be granted against the Respondent.

Background

- 1) This was an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy of the Property by the Applicant to the Respondent commencing on 4 May 2022.
- 2) The application was dated 14 April 2023 and lodged with the Tribunal on that date. The application sought payment of arrears of £7,576.20 “or other such sum as may be due together with interest at 4% per annum, from the date of any hearing to follow hereon”. The application was accompanied by a rent statement showing that since the commencement of the Tenancy only three payments had been received: the initial rent for 4 to 31 May 2022 (a pro-rated amount of £635.18), and two unusual payments, both on 11 July 2022 and both

for £6.90. There were thus 11 missed monthly payments, each of £690 (less the two small payments of £6.90). The lease for the Tenancy accompanied the application and it detailed a rental payment of £690 payable in advance on the 1st of each month from 1 June 2022 onwards.

- 3) In advance of the case management discussion (“CMD”), the Applicant lodged two updated rent statements, the latest on 4 July 2023 showing the arrears to be £9,664.93, on account of there being no further payments of rent at £690 for the period to 30 June 2023 and no payment of rent for the month of July 2023, which was now at a slightly higher amount from 4 July 2023 (being £708.73 for the month pro-rated).

The Hearing

- 4) The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 5 July 2023 at 14:00. I was addressed by the Applicant’s agent, Ken Caldwell, solicitor, Patten & Prentice. There was no appearance from the Respondent.
- 5) I had confirmed with the clerk in advance of commencing the CMD that no contact had been received from the Respondent (nor on his behalf) with the Tribunal. Having not commenced the CMD until around 14:05, I was satisfied to consider the application in the Respondent’s absence. In any case, no attempt was made by the Respondent to dial in late to the CMD.
- 6) At the CMD, the Applicant’s agent confirmed that the application was still insisted upon and that, if I was minded, it was sought at the increased figure of £9,664.93 plus interest at 4%. He submitted that this rate was reasonable in the absence of any contractual rate.
- 7) The Applicant’s agent confirmed that no contact had been received from the Respondent and a separate application for eviction was now proceeding to a CMD at a later date.
- 8) In regard to expenses, the Applicant conceded that – as the Respondent had not entered into appearance in the application – he did not have any material motion for expenses, though expenses were sought in his application. He made no motion for costs of debt recovery based on any contractual provision of the Tenancy Agreement.

Findings in Fact

- 9) On 4 May 2022 the Applicant let the Property as a Private Residential Tenancy to the Respondent under a lease with commencement on 4 May 2022 (“the Tenancy”).
- 10) In terms of clause 8 of the Tenancy Agreement, from 1 June 2022 onwards, the Respondent required to pay rent of £690 a month in advance on the 1st day of each month.

- 11) As of 14 April 2023, there was unpaid rent of £7,576.20 being unpaid rent due for the period 1 June 2022 to 30 April 2022, less two payments of £6,90 each.
- 12) On 14 April 2023, the Applicant raised proceedings against the Respondent for an order for payment of the rent arrears of £7,576.20 “or other such sum as may be due together with interest at 4% per annum, from the date of any hearing to follow hereon”.
- 13) As of 5 July 2023, the Respondent was in arrears of rent of £9,664.93 for the period of rent to 30 July 2023.
- 14) The Respondent provided no evidence of payment of any part of the said unpaid rent of £9,664.93 for the period of rent to 31 July 2023.
- 15) On 2 June 2023, a Sheriff Officer instructed by the Tribunal served intimated upon the Respondent giving him notice of the application and the case management discussion to be held.

Reasons for Decision

- 16) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. I was satisfied, on the basis of the application and supporting papers, that the necessary level of evidence for these civil proceedings had been provided showing rent arrears of £9,664.93 were due for the period to 31 July 2023 and remained outstanding as of today.
- 17) The Respondent provided no defence or dispute to the amount sought. In the circumstances, I was satisfied to hold that the sum of £9,664.93 in rent was due for the period to 31 July 2023.
- 18) The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. I was thus satisfied to make a decision at the CMD to award the sum of £9,664.93, being an order restricted to sums due under the Tenancy in regard to rent up to 31 July 2023.
- 19) I was not minded to grant expenses in the circumstances as I was not satisfied that the test in the Rules was met in the absence of any appearance by the Respondent. I was satisfied with granting interest at 4% as sought.

Decision

- 20) In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of £9,664.93 with interest at 4% per annum from the date of this Decision.

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.

Joel Conn

5 July 2023

Legal Member/Chair

Date