



**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/23/1347

Re: Property at Flat 1 3 West Pilton Way, Edinburgh, EH4 4BF (“the Property”)

Parties:

Castle Rock Edinvar In Association With Places For People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Bradley Byrne, Ms Margaret Hunter, Flat 1 3 West Pilton Way, Edinburgh, EH4 4BF (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member) and Gerard Darroch (Ordinary 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 Respondents to the Applicant in the sum of £5409.69 with interest at the rate of 4% per annum from the date of the decision until payment.

Background

1. By application dated 19 April 2023 the Applicant’s representatives Patten & Prentice LLP, Solicitors, Greenock, applied to the Tribunal for an order for payment by the Respondents in respect of alleged rent arrears arising from the Respondents’ tenancy. The Applicant’s representatives submitted a copy of the tenancy agreement and a rent statement in support of the application.
2. By Notice of Acceptance dated 22 May 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 13 June 2023.

4. By email dated 15 June 2023 the Applicant's representatives submitted an application to amend the sum claimed to £5406.69.
5. By email dated 19 July 2023 the Applicant's representatives provided further written representations to the Tribunal.

The Case Management Discussion

6. A CMD was held by teleconference on 19 July 2023. The Applicant was represented by Mr Kenneth Caldwell from the Applicant's representatives. The Respondents did not attend nor were they represented. The Tribunal being satisfied the Respondents had been given proper intimation of the CMD determined to proceed in their absence.
7. Mr Caldwell referred the Tribunal to his email of 18 July and the Rent Increase Notice dated 18 December 2021 that increased the rent from £640.00 to £664.96 with effect from 1 April 2022.
8. Mr Caldwell confirmed that the Respondents had vacated the property on 28 June 2023. He said the amount claimed by the Applicant remained at the sum stated on the rent statement provided in the email of 15 June and as sought in terms of the application to amend, namely £5406.69. He asked the Tribunal to grant an order for payment in that amount together with interest at the rate of 4% per annum. Mr Caldwell explained that there was no contractual provision for interest but that given the current cost of money the rate of 4% sought was reasonable and the Tribunal ought to exercise its discretion in terms of Rule 41A of the Tribunal's Rules of Procedure and award interest at that rate.

Findings in Fact

9. The parties entered into a Private Residential tenancy that commenced on 21 May 2021.
10. The initial rent was £640.00 per calendar month.
11. The rent was increased to £664.96 per month with effect from 1 April 2022.
12. The tenancy agreement made no provision for interest to run on any late payment of rent.
13. The Respondents vacated the property on 28 June 2023.
14. At that time the Respondents owe the Applicants rent amounting to £5406.69.

Reasons for Decision

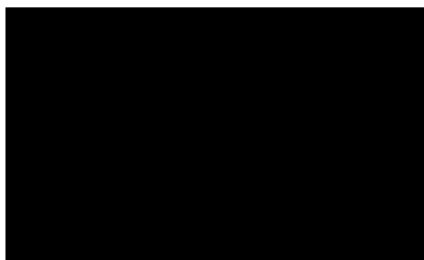
15. The Tribunal was satisfied from the written representations and documents together with the oral submissions that the parties entered into a Private Residential tenancy that commenced on 21 May 2021 at an initial rent of £640.00 per month and that was subsequently increased with effect from 1 April 2022 to £664.96. the Tribunal was also satisfied that by the time the Respondents had vacated the property on 28 June 2023 they owed rent of £5406.69 and that the Applicant was therefore entitled to an order for payment in that amount.
16. Although the Tenancy agreement made no provision for interest to be applied to late payments of rent and there was therefore no contractual obligation on the part of the Respondents to pay interest the Tribunal has in terms of Rule 41A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 discretion to award interest. Having taken account of the Applicant's representatives' submissions in this regard and the fact that the Respondents despite being given an opportunity to submit written representations and attend the CMD and had chosen to do neither, the Tribunal was satisfied that interest should be applied to the sum claimed. The Tribunal considered that given the current high interest rates an award of interest at 4% per annum from the date of the decision was reasonable.

Decision

17. The Tribunal being satisfied that it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £5406.69 with interest at the rate of 4% per annum from the date of the 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.



Legal Member/Chair

19 July 2023
Date