



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) Act 2016.

Chamber Ref: FTS/HPC/EV/23/1798

Re: Property at 2 Old School Court, Fort William, PH33 7EH (“the Property”)

Parties:

Highland Housing Alliance, Highland Housing Alliance, Fairways, Castle Heather, Inverness, IV2 6AA (“the Applicant”)

Mr Steven Carmichael, 2 Old School Court, Fort William, PH33 7EH (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent for the sum of £6267.03.

Introduction

This Case Management Discussion concerned an Application for an Eviction Order in relation to a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The hearing took place by teleconference

1. Attendance and Representation

Angus Brown, Harper Macleod LLP, Alder House, Cradlehall Business Park, Inverness, IV2 6AA attended for the Applicants. Kelly Campbell, Gayle Matheson and Claire Stoddart from the Applicant’s attended in the event assistance or further information was needed by the Tribunal.

The Respondent was not present and had been served by Sheriff Officer on 21st August 2023. The Tribunal did not commence until 10.10 am to try to allow the Respondent to attend.

2. Preliminary Matters

- a) The Tribunal raised the non-attendance of the Respondent as a preliminary matter. The Applicant's representative said that there was recent communication at the end of August 2023 to do with gaining entry to the property. However when the Respondent provided access it was by 2 unknown individuals and not by the Respondent so no communication took place. They confirmed that the Respondent still lived in the property.
- b) The Tribunal noted that the Applicant's representative had lodged with the Tribunal on 7th September 2023 an application to amend the sum sought in this application for civil proceedings. The application sought to amend the sum to £6267.03. As at the 1st September 2023 the Tribunal noted the arrears due in terms of that rent statement and application was £6267.03. The Respondent had been sent the application for amendment. The Tribunal amended the sum sought in the application to £6267.03.
- c) There were no other preliminary matters raised.

3. Case Management Discussion.

The Applicant's representative sought an Order for Payment for £6267.03. The Applicant's were also seeking an Eviction Order on the basis of Ground 12, Schedule 3 of the 2016 Act against the Respondent.

The Applicant's representative submitted that the PRT commenced on 19th November 2019 and the Respondent has lived there since that date. The Respondent is in excess of just over 10 months rent arrears. At the time of the service of the Notice to Leave dated 20th March 2023, the Respondent was in rent arrears of £3310.61. Monthly rent at this time given increases over the years is £611.83. The Applicant's representative said that the Respondent made a payment on 2nd May 2023 of £750 towards his rent account. This reduced the arrears to £37084.27. This was the last payment made to the rent account and the first payment which had been made since 25th October 2022.

The Applicant's sought an order for payment

4. Findings in Fact

1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondents had been served personally by Sheriff Officer on 21st August

2023. He had not provided any written representations or appeared at the Hearing.

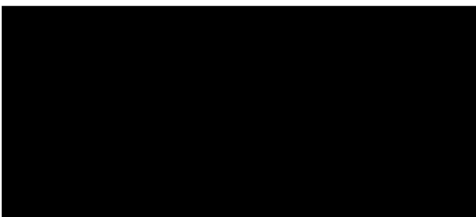
1. The Applicant and the Respondent entered into a Private Residential Tenancy on 19th November 2019. A copy of same was lodged.
2. At the start of the tenancy until September 2020 the rent per calendar month due was £569.99. By virtue of rent increases lodged rent payable is currently £611.83 per month
3. The Applicant's have title to pursue civil proceedings in regards the tenancy between parties.
4. A rent statement lodged with the application dated 31st May 2023 showed rent arrears of £3310.61 as at 20th March 2023. By virtue of the up to date rent statement and application to amend rent arrears due for the property amounted to £6267.03. The Tribunal found in fact based on the evidence before it that the Respondent was liable for said rent due. .
5. The Respondents owe to the Applicant in terms of the said tenancy the sum of £6267.03.

1. Reasons for Decision

The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property. The Tribunal was satisfied that there was a Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the respondent was in arrears of rent lawfully due and a Rent Statement for the property was lodged. Accordingly in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £6267.03 against the Respondents.

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.



21st of September 2023

Legal Member/Chair

Date

