



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Chamber Ref: FTS/HPC/CV/21/1156

Re: Property at 76 Nethertown Broad Street, Dunfermline, Fife, KY12 7DS (“the Property”)

Parties:

Mr Shaun Adams, 2/1, Chancelot Grove, Edinburgh, EH5 3AA (“the Applicant”)

Mr Daniel Cunningham, 76 Nethertown Broad Street, Dunfermline, Fife, KY12 7DS (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant(s):

Sum of FOUR THOUSAND THREE HUNDRED AND THIRTY POUNDS (£4,330) STERLING

- Background
- 1. An application dated 14 May 2021 was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a private residential tenancy agreement.

- The Case Management Discussion
2. A Case Management Discussion (“CMD”) took place on 5 August 2021. The Applicant was represented by Mr Robertson, solicitor. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 30 June 2021. The Tribunal was accordingly satisfied that the Respondent had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondent’s absence.
 3. The Applicant’s representative moved for the order for payment to be granted in the increased sum of £3,855. An updated rent statement had been submitted by email on 30 July 2021. The Tribunal noted that an application to amend in terms of Rule 14A had not been made. There had been no intimation of same on the Respondent giving at least 14 days’ notice prior to the CMD.
 4. The CMD was adjourned to a Hearing to take place on 14 September 2021 at 10am. A Hearing on the conjoined application under reference FTS/HPC/EV/21/1178 was also fixed to take place on the same date. If the Applicant wished to make an application under Rule 14A to increase the sum sought, he should do so in advance of the next Hearing.

The Hearing

5. A Hearing took place on 14 September 2021. The Applicant was again represented by Mr Robertson, solicitor. There was again no appearance by or on behalf of the Respondent.
6. Prior to the Hearing, on 16 August 2021 the Applicant’s representative submitted an application under Rule 14A to increase the sum sued for to £4,330. An updated rent statement was also lodged. This application was intimated on the Respondent by email.
7. The Applicant’s representative moved for the order for payment to be granted in the increased sum of £4,330. The parties had entered into a Private Residential Tenancy Agreement. The Respondent had failed to make payment of rent and at the time of submitting the application had fallen into arrears amounting to £2,905. Since submitting the application, no payments had been made and the arrears had increased to £4,330. The arrears had commenced in November 2020 and there had been a continuous arrear to date.

Findings in Fact

The Tribunal made the following findings in fact:

1. The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced 15 June 2020;
2. In terms of Clause 8 of the Agreement, the Respondent was obliged to pay a monthly rent of £475 to the Applicant;

3. The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £4,330.

- Reasons for Decision

The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondent was obliged to make payment of rent in the sum of £475 per month under Clause 8 of the Agreement and had failed to do so. He had accrued arrears amounting to £4,330 and which fell lawfully due to be repaid to the Applicant.

Accordingly, the Applicant was entitled to the Order for Payment as sought.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of FOUR THOUSAND THREE HUNDRED AND THIRTY POUNDS (£4,330)
STERLING

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.

Fiona Watson

Legal Member/Chair

Date: 14 September 2021