



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/CV/22/0751

Re: Property at 99 Stonylee Road, Cumbernauld, G67 2LR (“the Property”)

Parties:

Mr Salah Alkirwi, Earls Homes, 47 Main Street, Cumbernauld, G67 2RT (“the Applicant”)

Ms Karen Cross, Alex Fitzpatrick, Patrick Cross, 99 Stonylee Road, Cumbernauld, G67 2LR; 99 Stonylee Road, Cumbernauld, G67 2LR; 171 Hornbeam Road, Cumbernauld, G67 3NG (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order to be granted from the Respondent for £3710 (THREE THOUSAND SEVEN HUNDRED AND TEN POUNDS) with interest at 1.5% per annum.

1. An application was received by the Housing and Property Chamber dated 15th March 2022. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments seeking £3710 with interest at 3.5%.
2. On 4th May 2022 all parties were written to with the date for the Case Management Discussion (“CMD”) of 10th June 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 25th May 2025.

3. On 4th May 2022, sheriff officers served the letter with notice of the hearing date and documentation upon all three of the Respondents by letterbox service. This was evidenced by Certificate of Intimation dated 4th May 2022.

The Case Management Discussion

4. A CMD was held on 10th June 2022 at 2pm by teleconferencing. The Applicant was present. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
5. A rent account had been submitted for the period 15th June 2018 to 15th June 2022 along with other supporting information including letters to the Respondents advising of the arrears.
6. The last contact from the Respondent was in May 2022 when they contacted the Applicant with a payment offer addressing the arrears and ongoing rent. A payment has been received for £670 which was paid in two amounts of £150 and £520. This was prompted by a Notice to Leave which was served in May. The Applicant is content to accept payments on this basis but still wishes to have this order granted as the amount sought is still outstanding. The Applicant has not involved the Respondent who is the Guarantor yet as the Respondents who are living in the Property have started a payment agreement. The Applicant will consider his position regarding the Notice to Leave once further payments have been received.
7. The Tribunal considered that the request for interest at 3.5% was still high given that the base rate is 0.5%. The Tribunal was content to award interest at 1% above base rate namely 1.5%.
8. The Tribunal was satisfied that the outstanding amount for £3710 plus interest at 1.5% was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 15th June 2018.
10. The Respondents have persistently failed to pay their rent charge of £550 per month. The rent payments are due to be paid on 15th day of each month.
11. There are no Universal Credit Housing Element matters outstanding that would reduce the arrears, both Respondents living in the Property are working.
12. The arrears sought total £3710 with interest at 1.5%. The arrears have increased to £4140 which is beyond the amount sought in the application. A payment agreement has been entered into but it has not reduced the amount due below the amount sought in the application.

Decision

13. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £3710 with interest at 1.5%.

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.

Gabrielle Miller

10th June 2022

Legal Member/Chair

Date