



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/23/0084

Re: Property at 27 Woodside Road, Glenrothes, KY7 4DP (“the Property”)

Parties:

Blackmoon Lighting Ltd., Unit 8 Dryden Place, Bilston Glen Industrial Estate, Loanhead, Midlothian, EH20 9HP (“the Applicant”)

Ms Michelle Ness, Mr Steven Gray, 27 Woodside Road, Glenrothes, KY7 4DP (“the Respondents”)

Tribunal Members:

Jim Bauld (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order should be granted for payment in the sum of NINE THOUSAND AND NINE HUNDRED AND SIXTEEN POUNDS AND SEVENTY ONE PENCE (£9,916.71) with interest thereon at the rate of three (3%) per centum per annum running from the date of the decision of the First-tier Tribunal to grant this order, being 31 March 2023, until payment

Background

1. By application dated 10 January 2023, the applicant sought an order under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 31 January 2023, the application was accepted by the Tribunal and referred for determination by the tribunal

3. A Case Management Discussion (CMD) was set to take place on 31 March 2023 and appropriate intimation of that hearing was given to all parties

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 31 March 2023 via telephone case conference. The applicant was represented by David Gray, Senior Accredited Paralegal, Gilson Gray, solicitors, Edinburgh. The respondents were not in attendance and were not represented.
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters. The tribunal asked various questions with regard to the application and the documents lodged in support of it. The applicant's representative confirmed that he wished the tribunal to grant the order sought in the application.

Findings in fact

6. The Applicant and the Respondents as respectively the landlord and tenants entered into a tenancy of the property which commenced on 20 April 2018.
7. The tenancy was a private residential tenancy in terms of the Act.
8. The agreed monthly rental was £575.
9. Rent arrears had accrued at 1 March 2023 amounting to £3,018.28.
10. Appropriate accounting had been provided in respect of the outstanding rent with the application to the tribunal.

Reasons for Decision

11. The tribunal accepted the unchallenged evidence presented on behalf of the applicant regarding the outstanding sums. The tribunal noted that the respondents had failed to engage with both the applicant and with the tribunal despite having ample opportunity to do so. The tribunal notes that the first

named respondent Ms Ness had emailed the tribunal office on 29 march asking whether the tribunal had received her application for a Time To Pay Direction which she claimed to have sent by post in February 2023 . No such application had been received. Ms Ness was advised of same and invited to lodge such application. No further response has been lodged

12. The sum claimed when the application was lodged was £8766.71 being the arrears accrued as at 31 December 2022. Arrears had continued to accrue between the lodging of the application and the date of the CMD

13. By email dated 7 March 2023, the applicant's representative had intimated to the tribunal and to the respondents that the applicant wished to amend the sum claimed to £9916.71 to reflect the final arrears as at 1 March 2023. The tribunal was satisfied that intimation of this amount had been given to the respondent by email and that the amendment should be allowed

14. The applicant's representative requested that interest should be allowed on the payment order at a rate of 3% being a reasonable rate taking into account the current base lending rate of 4.25%

15. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

The order for payment of the sum of £9916.71 is granted together with interest at 3% per annum from the date of the order 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.

Jim Bauld

31 March 2023

Legal Member/Chair

Date