



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/20/1441

Re: Property at 54A Elba Street, Ayr, KA8 0DG (“the Property”)

Parties:

Ms Fiona Brown, c/o Key-Lets, 12 Parkhouse Street, Ayr, KA7 2HH (“the Applicant”)

Mr Graham Robertson, 54A Elba Street, Ayr, KA8 0DG (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in the sum of £4,250.00 with interest thereon at 4% per annum above the Royal Bank of Scotland base rate.

Background

1. This is an application dated 2nd July 2020, made in terms of Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicants were seeking an order for payment in respect of rent arrears in the sum of £1250, together with interest at the rate of 8% per annum. The Applicant’s representative lodged a copy short-assured tenancy agreement which commenced on 11th September 2017, and a rent statement.
2. By email dated 7th October 2020, the representative for the Applicant lodged an updated rent statement showing the arrears to be £4,250.00.

3. A Case Management Discussion (“CMD”) took place by telephone conference on 9th October 2020. Neither party was in attendance. The Applicant was represented by Mr David Phinn, Trainee Solicitor. The CMD was continued to allow an application to be made on behalf of the Applicant to increase the sum sought.
4. On 14th October 2020, parties were notified by letter of the date and time of the continued CMD to be held on 6th November 2020.
5. On 15th October 2020, the Applicant’s representative made an application to increase the sum sought to £4,250.00.

The Case Management Discussion

6. A Case Management Discussion (“CMD”) took place by telephone conference on 6th November 2020. Neither party was in attendance. The Applicant was represented by Mr David Phinn, Trainee Solicitor.
7. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the continued CMD. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent, upon the representations of the Applicant’s representative and all the material before it.
8. Mr Phinn moved that the application to amend be granted and asked the Tribunal to grant an order for payment in the sum of £4,250.00 with interest thereon at 4% above the Royal Bank of Scotland base rate, as provided for at clause 8 of the tenancy agreement between the parties. The Respondent has failed to pay the rent agreed in the sum of £400 per month, and the arrears now amount to £4,250.00.
9. The Tribunal granted the application to amend the sum sought to £4,250.00. The Tribunal granted the order for payment as sought.

Findings in Fact

10.
 - (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 11th September 2017.
 - (ii) The monthly rent was £400.
 - (iii) The Respondent has failed to make payment of rent lawfully due in the sum of £4,250.00.

- (iv) The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement.

Reasons for Decision

11. The Respondent has failed to make payment of rent lawfully due in terms of the tenancy agreement. The Applicant is entitled to recover the rent lawfully due.

Decision

12. An order for payment is granted in favour of the Applicant in the sum of £4,250.00 with interest thereon at 4% per annum above the Royal Bank of Scotland base rate.

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.

Helen Forbes

Legal Member/Chair

6th November 2020
Date