



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/20/1882

Re: Property at 9 Campbell Court, Greenock, PA16 8AZ (“the Property”)

Parties:

GFS Properties, 3 Campbell Street, Greenock, PA16 8AN (“the Applicant”)

Ms June Begg, 9 Campbell Court, Greenock, PA16 8AZ (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order in favour of the Applicant against the Respondent for payment of the sum of £5197.56 should be made.

Background

1. By application submitted on 4 September 2020, the Applicant sought a payment order in the sum of £4057.56, plus interest thereon at 3% per annum, against the Respondent in respect of rent arrears incurred in respect of the Property in terms of Rule 70 of the Regulations. Supporting documentation was submitted in respect of the application, including a copy of the lease and a Rent Statement.
2. On 9 September 2020, a Legal Member of the Tribunal with delegated powers from the Chamber President subsequently issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations. A Case Management Discussion (“CMD”) was fixed for 26 October 2020 at 2pm, to take place by telephone conference call. Notice of the Application and notification of the CMD was served on the Respondent by Sheriff Officer on 24 September 2020.

3. On 2 October 2020, the Applicant's agent emailed the Tribunal, seeking to amend the application by increasing the principal sum claimed to £5492.58 and lodging an updated Rent Statement. This correspondence was circulated to the Respondent.
4. Written representations were to be lodged by 14 October 2020. No written representations were received from the Respondent.

Case Management Discussion

5. On 26 October 2020, the Applicant's representative, Mr Kenneth Caldwell of Patten & Prentice LLP joined the telephone conference CMD. The Legal Member delayed the start of the CMD for a few minutes after 2pm to see if the Respondent joined but she did not do so.
6. After introductions and introductory remarks by the Legal Member, Mr Caldwell addressed the Application. He made reference to the lease, the monthly rent due of £570 in terms of the lease and the updated Rent Statement. He explained that there is a history of rent arrears and that a formal notice in respect of eviction was served earlier in the year in respect of the rent arrears but that this had not been progressed due to Coronavirus. However, the arrears have now risen to £5492.58 and the Applicant is seeking an order for payment in that sum, plus interest thereon at the rate of 3% per annum. Mr Caldwell stated that this was in fact the third action the Applicant has required to pursue against the Respondent in respect of rent arrears. He referred the Legal Member to the entry in the Rent Statement for November 2016 showing that the Respondent had made a lump sum payment of over £3000 which Mr Caldwell advised was to settle sums owing in respect of a previous eviction action raised. The second action was settled by way of a payment arrangement being entered into. However, the arrears have risen again. The Respondent is understood to have been in employment throughout so the reason for the arrears accruing is unknown. Approximately 10 days ago, the Applicant was informed that the Respondent may be leaving the Property and, having contacted her in this regard, she confirmed that she was intending to leave at the end of this month. No offers have been made to clear the arrears and no further payments towards rent have been made since the updated Rent Statement was prepared. The Legal Member asked about an apparent discrepancy between the original and updated Rent Statements lodged in respect of a payment entry for August 2020 of £285 which appeared in the original Statement but not the amended Statement. Mr Caldwell noted that and advised that this has likely been an error in the preparation of the updated Statement by the Applicant. He confirmed that the Legal Member could therefore deduct the sum of £285 from the sum claimed if she felt that was appropriate. The Legal Member confirmed that she would do so and was prepared to grant a payment order in respect of the balance of £5197.56, plus interest at 3% as sought. Mr Caldwell confirmed that no expenses were being sought in the circumstances.

Findings in Fact

7. The Applicant is the landlord of the Property.
8. The Respondent is the tenant of the Property by virtue of a Short Assured Tenancy which commenced on 1 December 2015.
9. The rent in terms of the tenancy was £570 per calendar month.
10. There is a history of rent arrears throughout the tenancy.
11. The last payment made by the Respondent in respect of rent was the sum of £285 in August 2020 and no further payments or offers of payment have been made.
12. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this application.
13. The sum of £5197.56 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy and has not been paid by the Respondent.

Reasons for Decision

14. The Respondent did not submit any written representations to the Tribunal and did not attend the CMD, having been properly and timeously notified of same.
15. The request on behalf of the Applicant to amend the application to increase the sum claimed was made timeously in terms of the Regulations and accordingly, the Legal Member allowed same.
16. The Legal Member was satisfied from the information contained in the application and supporting documentation, together with the oral submissions made by the Applicant's Representative at the Case Management Discussion that the balance of the sum claimed in unpaid rent in respect of the Property of £5197.56 is due and owing by the Respondent.
17. The Legal Member concluded that there being no information to the contrary from the Respondent, that the matter did not require to go to an evidential hearing and that an order for payment of the sum of £5197.56 should be made, with an order for interest thereon at the rate of 3% per annum as sought.

Decision

The Legal Member determined that an order for payment by the Respondent of the sum of £5197.56, plus interest thereon at the rate of 3% per annum should be made in favour of the Applicant.

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.

Nicola Weir

Legal Member/Chair

26 October 2020
Date