



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/21/0898

Re: Property at 39 Prospecthill Street, Greenock, PA15 4DN (“the Property”)

Parties:

Ms Louise Williams, 102 Mackie Avenue, Port Glasgow, PA14 5AY (“the Applicant”)

Mrs Kay Spiers, 39 Prospecthill Street, Greenock, PA15 4DN (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of **ONE THOUSAND FIVE HUNDRED POUNDS (£1500) STERLING** with interest at 3% per annum. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. By application dated 14 April 2021, the Applicant’s agent applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy between the parties and a rent statement to 18 March 2021.

3. On 22 April 2021, the Tribunal accepted the application under Rule 9 of the Regulations 2017.
4. On 30 April 2021 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 1 June 2021. The Respondent required to lodge written submissions by 21 May 2021. This paperwork was served on the Respondent by Colin R Wilks, Sheriff Officer, Kilmaurs on 3 May 2021 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with the Case Management Discussion on 1 June 2021 by way of teleconference. The Applicant was represented by Mr Gisbey a Director from Homefinders Inverclyde, the Applicant’s agent. There was no appearance by or on behalf of the Respondent despite the teleconference starting 15 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
6. The Tribunal had before it the Private Rented Tenancy Agreement between the parties and a rent statement to 18 March 2021.
7. Mr Gisbey asked the Tribunal to grant an order for payment of £1500. He explained since the application was made the arrears had increased by £1000 and currently stood at £2500. The Tribunal noted that in terms of Clause 8 of the tenancy agreement the Respondent had agreed to pay a monthly rent of £500. With reference to the rent statement Mr Gisbey confirmed that payments over the last year had been sporadic and often did not cover the monthly rent with the last payment being £400 on 26 February 2021. Mr Gisbey submitted he had hit a brick wall in relation to the arrears and thought the Respondent may have left the Property. He sought interest at 3% per annum on arrears, although there was no provision in the tenancy agreement for interest. He submitted that compared to the judicial rate of interest of 8%, 3% was reasonable.

Findings in Fact

8. The Applicant and the Respondent agreed by way of Clause 8 of a Private Residential Tenancy Agreement dated 18 June 2020 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £500.
9. The Respondent has fallen into arrears of rent. Her rent payments have been sporadic and on occasions did not cover the monthly rent. She has not made any payments towards rent since 26 February 2021 when she paid £400. The arrears as at 18 March 2021 were £1500. Arrears have increased to £2500 as at 1 June 2021.

Reasons for Decision

10. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Gisbey. The Tribunal noted the content of the rent statement lodged which showed the Respondent's payments to rent since the beginning of the tenancy as being sporadic and falling short of the monthly rent of £500. The Applicant produced evidence of persistent non-payment of rent with reference to the tenancy agreement and the rent statements lodged. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of these documents, together with the Applicant's submissions that the order for payment in favour of the Applicant be granted.
11. Further the Tribunal was satisfied it was reasonable to use its discretion in terms of Rule 41A to award interest at 3% per annum running from the date of the decision. The rate of interest sought by the Applicant was not excessive in the current climate and fell far below the current judicial rate of interest.

Decision

12. The Tribunal granted an order for payment of £1500 with 3% interest from the date of this decision 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.

Shirley Evans

1 June 2021

Legal Member

Date