

Housing and Property Chamber
First-tier Tribunal for Scotland



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/21/3195

Re: Property at Flat 22F Prospecthill Street, Greenock, PA15 4DL ("the Property")

Parties:

Galson Properties (Greenock) Limited, 18 Nicholson Street, Greenock, PA15 1JU ("the Applicant")

Mr Robert Temporal, Flat 1 Up Right otherwise Flat F, 22 Prospecthill Street, Greenock, PA15 4DL ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-

At the Case Management Discussion ("CMD"), which took place by telephone conference on 12 May 2022, the Applicant was in attendance represented by Mr Stuart McTavish and was legally represented by Ms Melissa Wilson of Patten & Prentice LLP, Solicitors, Greenock. The Respondent was neither present or represented and had lodged no written representations.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/EV/21/3194.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

Prior to the CMD the Tribunal had received two emails with enclosures from Patten & Prentice LLP dated 8 April and 5 May 2022.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 28 March 2020.
- ii. The rent payable in terms of the PRT is £275 per month.
- iii. The rent arrears due as at the date of the application are £5,500.00.
- iv. That on 8 June 2021, the Applicant's agent served on the Respondent by personal delivery a Notice to Leave requiring the Respondent remove from the Property by 9 December 2021 on the basis that rent arrears had accrued over three consecutive months.
- v. That on 22 December 2021 the Applicant's agent wrote to the Respondent with a copy of the PRT, an up to date rent statement and a copy of a Scottish Government leaflet entitled "Private Rented Sector Tenant Support".
- vi. That the Applicant's agent has served on Inverclyde Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Wilson for the Applicant made the following representations in respect of this application and the associated application FTS/HPC/EV/21/3194:-

- i. The rent arrears balance as at today's date is £6,875.00.
- ii. The Respondent has paid no rent since the start of the PRT.
- iii. No deposit was paid by the Respondent.
- iv. The Respondent has not engaged with the Applicant or it's agent throughout the duration of the PRT.
- v. The Respondent may have absconded.
- vi. The Applicant's agent has previously required to evict the Respondent for two other clients.
- vii. The PRT made no provision for payment of interest on rent arrears accrued.
- viii. The Applicant sought:-
 - a. To amend the sum claimed in the application to £6,600;
 - b. An order against the Respondent for payment of £6,600 with interest on that amount at 4% per annum; and
 - c. An order for payment of expenses.

Mr McTavish for the Applicant also stated:-

- i. That he does not believe the Respondent has any dependents staying with him at the Property.
- ii. That the Respondent was in employment at the outset of the PRT;
- iii. That the Respondent has not engaged with the Applicant directly.

Findings in Fact

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 28 March 2020.
- iii. The rent payable in terms of the PRT is £275 per month.

- iii. The rent arrears due as at the CMD are £6,875.00.
- iv. That on 8 June 2021, the Applicant's agent served on the Respondent by personal delivery a Notice to Leave requiring the Respondent remove from the Property by 9 December 2021 on the basis that rent arrears had accrued over three consecutive months.
- v. That on 22 December 2021 the Applicant's agent wrote to the Respondent with a copy of the PRT, an up to date rent statement and a copy of a Scottish Government leaflet entitled "Private Rented Sector Tenant Support".
- vi. That the Applicant's agent has served on Inverclyde Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vii. That the Respondent has not engaged with the Applicant or its agent.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally at the CMD was not challenged and was accepted by the Tribunal.

The rent arrears are substantial and reflect the Respondent having paid no rent to the Applicant throughout the entire duration of the PRT.

The Applicant has complied with Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (the Rules"). The Applicant's agent intimated to the Tribunal an application to amend the sum claimed in the application to £6,600 by email dated 8 April and by email dated 5 May 2022 produced to the Tribunal evidence of service of the application to amend on the Respondent, namely a Royal Mail receipt dated 13 April 2022 showing the Respondent's signature thereon. The Tribunal was therefore content to allow the sum claimed by the Applicant to be amended to £6,600.

The PRT contains no provision for payment of interest. The Tribunal carefully considered whether to exercise its discretion to award interest in terms of Rule 41A of the Rules and determined that no award of interest would be made.

The Tribunal considered Rule 40 of the Rules relative to expenses of applications but there had been no unreasonable behaviour on the part of the Respondent in the conduct of the case that had put the Applicant to unnecessary or unreasonable expense. The respondent's failure to attend the CMD did not meet the criteria for an award of expenses to be considered. The Tribunal therefore made no award of expenses.

Decision

The Tribunal:-


- i. Allows the application to be amended to increase the sum claimed to £6,600; and
- ii. Grants an order against the Respondent for payment of £6,600.

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.

G Buchanan



Legal Member/Chair

12 May 2022
Date