



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/22/0582

Re: Property at Flat 4, Crawl View, Mitchell Lane, Alness, Ross-Shire, IV17 0QW (“the Property”)

Parties:

Mr Eric Duncan, 3 Crawl View, Mitchell Lane, Alness, Ross-Shire, IV17 0QW (“the Applicant”)

Mr Nick Ross, Flat 4, Crawl View, Mitchell Lane, Alness, Ross-Shire, IV17 0QW (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £6,491.03 with interest at the rate of 3% per annum from today, until payment.

Background

1. An application was submitted on 1 March 2022 in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the 2017 Regulations”).
2. The Applicant sought an order for payment in the sum of £5,500, which represented arrears of rent said to have been incurred by the Respondent.
3. By decision dated 14 March 2022, a Convenor of HPC having delegated powers of the Chamber President, referred the application under Rule 9 of the Rules to a Case Management Discussion.

4. In support of his application, the Applicant produced a copy tenancy agreement and statement of rent.
5. The Tribunal intimated the application to the parties by letter of 4 April 2022 and advised them of the date, time and conference call details of today's case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 25 April 2022. No written representations were received by the Tribunal.
6. On 6 May 2022 the Applicant's representative submitted an application to amend by increasing the sum sued for to £6,491.03 and interest was sought on the sum found due. The application to amend was accompanied by an updated rent statement. The Applicant's representative intimated the amendment application to the Respondent by email on 6 May 2022.

The Case Management Discussion

7. The Applicant was represented by Miss Wooley. The discussion took place by conference call and proceeded in the absence of the Respondent. The Applicant's representative advised that there had been no recent contact with the Respondent and that he vacated the property on 18 May 2022. There had been no further payments to the rent account. The Applicant's representative moved to increase the sum sued for to £6,491.03 and sought an order for payment in that sum, together with interest at the rate of 3% per annum from the date of the decision, until payment. In relation to interest, she relied upon rule 41A of the 2017 Regulations.

8. Findings in Fact and Law

- a. The Applicant and Respondent entered into a private residential tenancy which commenced on 22 October 2020.
- b. Rent due was £525 per calendar month, payable in advance.
- c. As at 20 May 2022, the Respondent had incurred rent arrears totalling £6,491.03.

Reasons for Decision

9. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is a private residential tenancy the Tribunal has jurisdiction to determine the present application.
10. The Respondent failed to submit any written representations and failed to participate in the case management discussion.

11. The Applicant had produced an updated rent statement along with the application to amend to increase the sum sued for. That application had been intimated to the Respondent. The amendment did not introduce new issues. There was no material before the Tribunal to dispute the accuracy of the updated rent statement lodged. The Tribunal was satisfied that the Respondent had incurred rent arrears as reflected in the updated rent statement. The Tribunal therefore granted the application to increase the sum sued for and thereafter granted an order for payment in that sum.
12. The Tribunal exercise discretion and in terms of Rule 41A and awarded interest of the sum due from today's date until payment at the 3% per annum.

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 Irvine

Legal Member/Chair

20 May 2022

Date