

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/22/1342

Re: Property at Flat 6, 2 Ropemaker Street, Edinburgh, EH6 7AN (“the Property”)

Parties:

Peleus Residential Property Investment LP, 26 Charlotte Square, Edinburgh, EH2 4ET (“the Applicant”)

Mr Michael David Ferrini, Flat 6, 2 Ropemaker Street, Edinburgh, EH6 7AN (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary 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 £14,300, with interest at the rate of 8% per annum from today’s date until payment.

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in the sum of £11,700 with interest from the date of the decision.
2. By decision dated 25 May 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.

3. The Notice of Acceptance was intimated to the Applicant's representative on 30 May 2022. The Tribunal intimated the application to the parties by letter of 27 June 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 18 July 2022. No written representations were received by the Tribunal.
4. By email of 25 July 2022, the Applicant sought to amend the sum sued for to £14,300 and that application was accompanied by an update rent statement.

The case management discussion

5. The Applicant was represented by Miss Wooley. The case management discussion took place by conference call and proceeded in the absence of the Respondent. This case called alongside a related case which proceeds under chamber reference FTS/HPS/EV/22/1341. The Applicant's representative explained that there has been very little contact with the Respondent throughout the period of the tenancy. Following service of the Notice to Leave, the Respondent made two payments of rent but has not made any contact with the Applicant's representative. The Respondent has been in arrears of rent for many months and has not made any arrangement to pay the arrears of rent. As at 1 July 2022, the rent arrears due by the Respondent have increased to £14,300. The Applicant's representative sought an order for payment in the sum of £14,300 with interest at the rate of 8% per annum from the date of the decision. The Applicant's representative relied upon the contractual terms of the tenancy agreement and in particular clause 8 which provides "Interest on late payment of rent may be charged by the Landlord at eight per cent per year from the date on which the rent is due until payment is made".

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 1 April 2021.
7. The Respondent was obliged to pay rent at the rate of £1,300 per month, in advance.
8. As at the date of this case management discussion, the rent arrears due by the Respondent amounted to £14,300.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondent failed to submit written representations and failed to participate in the case management discussion. The updated rent statement lodged demonstrated that there are significant arrears of rent. There was no material before the Tribunal to indicate that the Respondent disputed the level of rent arrears.
10. The Tribunal observed that the debt due by the Respondent is substantial and has been outstanding for a considerable time. It was noted that the tenancy agreement provided for interest on late payment of rent at the rate of 8% per annum. The Tribunal exercised its discretion and awarded interest on the sum due at the rate of 8% per annum from today's date 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.

Nicola Irvine

Legal Member/Chair

8 August 2022

Date