



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/22/2336

Re: Property at 25A Vicar Street, Falkirk, FK1 1LL (“the Property”)

Parties:

H & B Collection Ltd, 4 Cairnhill View, Bearsden, Glasgow, G61 1RP (“the Applicant”)

Mr Paul Cairns, 25A Vicar Street, Falkirk, FK1 1LL (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Gordon Laurie (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 £8,633.27, with interest at the rate of 3% 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 respect of rent arrears said to have been incurred by the Respondent.
2. By decision dated 9 August 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 10 August 2022. The Tribunal intimated the application to the parties by letter of 1 September 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 22 September 2022. No written representations were received by the Tribunal.

4. On 6 October 2022, the Applicant's representative submitted an application to amend the sum sued for to £8,633.27 with interest. The application to amend was accompanied by an updated rent statement. The amendment application was intimated to the Respondent by the Applicant's representative by email on 6 October 2022.

The case management discussion

5. The case management discussion took place by conference call. The Applicant was represented by Ms Matthew. The Respondent did not join the conference call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/EV/22/2334. The Applicant's representative explained that the Respondent has made only two payments towards the rent account since July 2021. The Applicant's letting agent has issued several letters to the Respondent regarding rent arrears but the Respondent has failed to make any proposals for payment of the rent arrears. The arrears have continued to increase. The Applicant sought to increase the sum sued for to £8,633.27 which sum is reflected in the updated rent statement and moved for a payment order to be granted in that sum, together with interest at the rate of 3%. Although there was no contractual term providing for interest, the Applicant's representative relied upon rule 41A which gives the Tribunal discretion to award interest.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 7 January 2020.
7. The Respondent was obliged to pay rent at the rate of £600 per month, in advance.
8. As at the date of this case management discussion, the rent arrears due by the Respondent amounted to £8,633.27.

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 participate in the discussion and did not lodge any written submissions. The updated rent statement lodged demonstrated that there are significant arrears of rent. There was nothing to indicate that the Respondent disputed the level of rent arrears shown on the updated rent statement. The Tribunal was satisfied

that the sum of £8,633.27 is due to the Applicant in respect of rent arrears. The amendment application had been intimated to the Respondent. The Tribunal therefore granted the application to amend the sum sued for.

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 made no provision for interest on late payment of rent. The Tribunal exercised its discretion and awarded interest on the sum due at the rate of 3% 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

20 October 2022
Date