



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/23/1536

Re: Property at 100 Middlefield Place, Aberdeen, AB24 4PA (“the Property”)

Parties:

Emslie Properties Limited, PO Box 29487, Banchory, Aberdeenshire, AB31 9AN (“the Applicant”)

Mr Etta Ojong-Okongor, 14 Ilford Road, Birmingham, B23 5HH (“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 £3,592.50 with interest at the rate of 4% per annum from the date of this decision 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 8 June 2023, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 8 June 2023. The Tribunal intimated the application to the parties by letter of 19 June 2023 and advised them of the date, time and conference call details of

today's CMD. 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 10 July 2023. No written representations were received from the Respondent.

4. On 13 and 27 July 2023, the Tribunal received emails from the Applicant's representative, advising that agreement had been reached between the parties to the effect that the Respondent would consent to a payment order being granted on the basis that he will make payment at the rate of £250 per month.

The case management discussion

5. The CMD took place by conference call. The Applicant was represented by Mr Aaron Doran, solicitor. The Respondent did not join the conference call and the discussion proceeded in his absence. The Applicant's representative explained that the Respondent made a payment of £250, which reduced the arrears of rent to £3,582.50. The Applicant's representative moved for an order for payment in that sum, together with interest as craved in the application.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 1 June 2020.
7. The contractual monthly rent was £450, payable in advance.
8. Rent increased to £475 per month with effect from September 2022.
9. The Respondent has incurred rent arrears of £3,582.50.

Reason for Decision

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent failed to lodge written representations and failed to participate in the CMD. There was nothing to suggest that the Respondent disputed the accuracy of the rent statement. Tribunal was satisfied that the Respondent has incurred rent arrears amounting to £3,582.50.
11. Although the parties have reached agreement about repayment by instalments, it will take some time for the Respondent to pay the arrears balance. The Tribunal noted that the tenancy agreement did not make provision for interest on late payment of rent. The Tribunal exercised its discretion in terms of rule 41A and awarded interest on the sum due at the rate of 4% 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

Date 27 July 2023