

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)

Chamber Ref: FTS/HPC/CV/21/0269

Re: Property at 57 Clepington Court, Dundee, DD3 7QF (“the Property”)

Parties:

Mr Russell Pottinger, 16 Craighill Court, Dundee, DD4 8XQ (“the Applicant”)

Mrs Kara Joyce, 57 Clepington Court, Dundee, DD3 7QF (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Linda Reid (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment should be granted in the sum of £6,235.00 with interest at the rate of 4%.

Background

This is an application under Rule 111 and section 71(1) of the Act in respect of alleged rent arrears due by the Respondent.

The Tribunal had regard to the following documents:

1. Application received 4 February 2021;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 15 August 2018;
3. Rent Arrears Statement as at 14 February 2021;
4. Certificate of Service of Tribunal CMD Notification on the Respondent by Sheriff Officers dated 24 March 2021;
5. Updated Schedule of Rent Arrears as at 14 April 2021;
6. CMD Note dated 22 April 2021;
7. Rent Statement to 15 May 2021;

8. Rent Increase Notice dated 18 April 2019.

Hearing

The case called for a Hearing on 9 June 2021. The Applicant was represented by Ms Matheson, Solicitor. The Applicant did not participate. The Respondent participated and represented herself. The Hearing had been fixed at the CMD which took place on 22 April 2021 at which both Parties were present.

The Tribunal had identified that the amount of rent arrears was in dispute at the CMD. The Respondent accepted that there were arrears in the region of £4,700 due as at the date of the CMD but nothing further. The Respondent was to lodge details of the exact amount of rent she accepted due.

At the commencement of the Hearing the Tribunal had not received any documents from the Respondent. The Applicant had lodged a list of documents and list of witnesses by email of 2 June 2021. These were allowed to be received late by the Tribunal. The documents comprised documents numbered 2, 7 and 8 above. They had been copied to the Respondent.

After clarification with the Respondent she confirmed that she had read the rent statement lodged by the Applicant and confirmed it was accurate and the current arrears were £6,235.00.

Given the Respondent's position the Applicant's solicitor decided it was not necessary to lead any evidence and moved the Tribunal to (1) amend the application to increase the sum sued for to £6,235.00; (2) grant the order for payment in that amount and (3) apply interest.

The Tribunal adjourned to consider its decision. After deliberations the Tribunal found, in so far as material, that the following facts had been established:

1. The Parties let the subjects under a PRTA commencing 15 August 2018;
2. The monthly rent was £390;
3. As at the date of the Hearing the arrears were £6,235;
4. The arrears were admitted as due.

The Tribunal granted the amendment and increased the sum sued for to £6,235.00. The Tribunal considered that it had sufficient information upon which to make a Decision and that the procedure was fair. The Tribunal was satisfied that the rent arrears had been established and accordingly granted the application for an order for payment in the sum of £6,235.00 with interest at the rate of 4%.

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.

Alan Strain

9 June 2021

Legal Member/Chair

Date