



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/24/0791

Re: Property at 24 Middlebank Street, Rosyth, Fife, KY11 2NY (“the Property”)

Parties:

**Mr James Kyle, Cemetery Lodge, 42 Halbeath Road, Dunfermline, Fife, KY12
7RA (“the Applicant”)**

**Miss Laura Duncan, 24 Middlebank Street, Rosyth, Fife, KY11 2NY (“the
Respondent”)**

Tribunal Members:

Ms H Forbes (Legal Member) and Mr L Forrest (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment should be granted in favour of
the Applicant in the sum of £2450 with interest thereon at the rate of 4% per
annum above the Bank of England base rate.**

Background

1. By application received on 19th February 2024 and made under Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £2450. The Applicant lodged a rent statement, a short assured tenancy agreement between the parties commencing on 1st May 2015 at a monthly rent of £550, and a sheriff officer invoice.
2. The application and notification of a Case Management Discussion was served upon the Respondent by sheriff officer on 21st February 2024.
3. By email dated 22nd February 2024, the Applicant lodged an amended rent statement showing rent due in the sum of £2450, together with interest in the sum of £277.61, as provided for in clause 4 of the tenancy agreement, and

expenses of £66.17. The Applicant stated he would also be seeking the further sum of £550 due at the end of February 2024, with a total sum sought of £3366.91.

The Case Management Discussion

4. A Case Management Discussion took place by telephone conference on 12th March 2024. The Applicant was in attendance. The Respondent was not in attendance. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
5. The Tribunal indicated there were issues with the claims for interest and expenses, and the CMD could be continued to allow the Applicant to take advice on these matters, should he so wish.
6. The Tribunal explained it can only grant interest from the date of the decision. The Tribunal indicated it would not be minded to grant the expenses of the sheriff officer for serving the Notice to Quit and the section 33 notice, as the conjoined eviction application was a non-fault-based eviction. The Tribunal considered this to be an expense which a landlord must bear if they wish to bring the tenancy to an end, pointing out that it would have been open to the Applicant to serve the notices by a less costly method. Furthermore, there was no provision within the tenancy agreement for recovering such costs.
7. The Applicant said he did not wish to continue to a further CMD and would accept the Tribunal's decision in respect of interest and expenses.
8. The Applicant said the current arrears are £3000. The email of 22nd February 2024 had been copied to the Respondent, however, at the time of sending the email, the arrears were £2450.

Findings in Fact and Law

9.
 - (i) Parties entered into an assured tenancy that commenced on 1st May 2015 with rent due in the sum of £550 per month.
 - (ii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - (iii) The Applicant is entitled to recover rent lawfully due.
 - (iv) The Applicant is entitled to claim interest at the rate of 4% above the prevailing base rate in terms of clause 4 of the tenancy agreement.

Reasons for Decision

10. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties. The sum of £2450 was outstanding on 22nd February 2024, when the application to amend was lodged. An application to amend cannot be based on prospective losses, therefore, the Tribunal made an order for payment in the sum of £2450. The Applicant is entitled to claim interest on the rent arrears in terms of the tenancy agreement.

Decision

11. An order for payment is granted in favour of the Applicant in the sum of £2450 with interest thereon at the rate of 4% above the Bank of England base rate from the date of making the decision 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.

H Forbes

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Legal Member/Chair

12th March 2024
Date