



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

Chamber Ref: FTS/HPC/CV/19/2731

Re: Property at 51 Glenmore Avenue, Bellshill, ML4 2JW (“the Property”)

Parties:

Mr Ian Watson, c/o 169 Main Street, Bellshill, ML4 1AH (“the Applicant”)

Miss Victoria Lawless, 51 Glenmore Avenue, Bellshill, ML4 2JW (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £5200.00 with interest thereon from the date of the decision at the rate of 3% per annum until payment.

Background

1. By application dated 29 August 2019 the Applicant's representatives Bannatyne Kirkwood France, Solicitors, Glasgow applied to the Tribunal for an order for payment on the grounds that the Respondent had accrued rent arrears under a Private Residential Tenancy Agreement. The Applicant's representatives provided the Tribunal with a copy of the tenancy agreement and a rent statement in support of the application.
2. By Notice of Acceptance dated 8 October 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was given to the Applicant's agents by Recorded delivery post on 28 October 2019 and to the Respondent by Sheriff Officers on 29 October 2019.

The Case Management Discussion

4. A Case Management Discussion was held at Glasgow Tribunals Centre on 29 November 2019. It was attended by Ms Ephemina Matheson of the Applicant's representatives on behalf of the Applicant. The Respondent did not attend and was not represented. The Tribunal on being satisfied that the Respondent had been given proper notice of the Case Management Discussion by Sheriff Officers determined in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016 ("the 2016 Rules") to consider the application in her absence.
5. Ms Matheson referred the Tribunal to the terms of the Tenancy Agreement and confirmed the lease had commenced on 25 January 2019. The rent was £650.00 per month. Ms Matheson said the Respondent had last paid rent on 29 March 2019 and had been in arrears since 25 April 2019. She said the current arrears amounted to £5200.01.
6. Ms Matheson referred the Tribunal to the application to amend the sum claimed to £4550.01 sent to the Tribunal on 12 November 2019. She confirmed the application had been sent to the Respondent by recorded delivery post on 12 November 2019 and produced the Royal Mail Proof of Delivery confirming it had been delivered on 13 November 2019. The Tribunal allowed the sum claimed to be increased to £4550.01.
7. Ms Matheson referred the Tribunal to the latest rent statement and asked the Tribunal to grant an order for payment in the amended sum together with interest at a rate to be determined by the Tribunal. Ms Matheson suggested that a reasonable rate to reflect the use of the funds would be 3% per annum.

Findings in Fact

8. The parties entered into a Private Residential Tenancy Agreement that commenced on 25 January 2019 at a rent of £650.00 per month.
9. The Respondent last paid rent on 29 March 2019.
10. The Respondent accrued rent arrears as at 25 October 2019 amounting to £4550.00.

Reasons for Decision

11. The Tribunal was satisfied from the evidence provided in the written submissions and by Ms Matheson at the Case Management Discussion that the parties had entered into a Private Residential Tenancy Agreement at a rent of £650.00 per month. The Tribunal was also satisfied that the

Respondent had failed to pay any rent since 29 March 2019 and therefore by 25 October there was 7 month's rent outstanding amounting to £4550.00 and the Applicant was entitled to an order for payment of that amount.

12. Although the Tenancy agreement made no provision for the payment of interest on rent arrears, the 2016 Rules made provision for the tribunal to make an award of interest on payment orders (Rule 41A). The Applicant had sought interest in the application and in the circumstances the Tribunal considered it reasonable that interest should run from the date of the decision until payment at the rate of 3% per annum.

13. Decision

The Tribunal finds the Applicant entitled to an order for payment by the Respondent in the sum of £4550.00 with interest thereon from the date of the decision at the rate of 3% per annum.

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.

Graham Harding

Legal Member/Chair

29 November 2019

Date