



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/23/3424

Re: Property at Flat 4, 6 Wharf Street, Montrose, Angus, DD10 8BD (“the Property”)

Parties:

Mr Gerard Quinn, Mrs Jennifer Quinn, 10 Kerrington Crescent, Broughty Ferry, Dundee, DD5 2TN (“the Applicants”)

Miss Vicki Harrison, Mr Anthony Dow, Flat 4, 6 Wharf Street, Montrose, Angus, DD10 8BD (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This was an application for a payment order dated 26th September 2023 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants sought in their application payment of arrears in rental payments of £4,925.00 in relation to the Property from the Respondents and provided with their application copies of the private residential tenancy agreement and rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and

the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 14th December 2023 and the Tribunal was provided with the executions of service.

A Case Management Discussion was held at 14:00 on 12th January 2024 by Tele-Conference. The Applicants did not participate and were represented by Mr Wilkie, letting agent. The Respondents participated and were not represented.

Following discussions, the Tribunal agreed with the parties to adjourn the Case Management Discussion to allow the Applicants to amend the sum sought in the application and the Respondents to investigate whether they might be eligible to claim certain benefits to assist with their housing costs.

By e-mail to the Tribunal of 11th March 2024, the Applicants provided an updated rent arrears statement disclosing arrears to 26th March 2024 of £7,475.00, and amended the sum sought in the application to that amount in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

Continued Case Management Discussion

A continued Case Management Discussion was held at 14:00 on 26th March 2024 by Tele-Conference. The Applicants did not participate and were represented by Mr Wilkie, letting agent. The Respondents participated and were not represented.

Mr Wilkie invited the Tribunal with reference to the application and papers to grant an order for payment of the sum of £7,475.00.

The Respondents did not oppose the granting of the order sought and confirmed that they did not wish to seek a time to pay direction. Parties were agreed that they would discuss a repayment plan with instalment payments between themselves without any formal direction or order from the Tribunal.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

“First-tier Tribunal's jurisdiction

- (1) In relation to civil proceedings arising from a private residential tenancy—
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.

- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
- (a) the prosecution of a criminal offence,
 - (b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

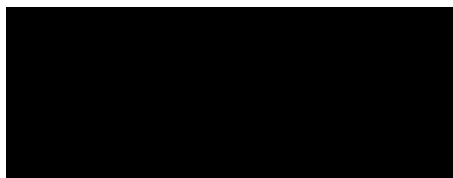
The Tribunal considered the terms of the private residential tenancy agreement, the rent arrears information provided, and the submissions made by Mr Wilkie, and was satisfied that these disclosed an outstanding balance of rent arrears due of £7,475.00. Rental of £425.00 per month was payable in advance in terms of clause 8 of the private residential tenancy agreement. The Respondents did not oppose the granting of the order sought. Accordingly, the Tribunal made an order for payment of that sum.

Decision

In these circumstances, the Tribunal made an order for payment by the Respondents jointly and severally to the Applicants of the sum of £7,475.00.

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.



Legal Member/Chair

Date 26th March 2024