



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/24/3106

Re: Property at 75 Glenmoy Terrace, Forfar, DD8 1NH (“the Property”)

Parties:

JW Real Estate Ltd, Europa House, Marsham Way, Gerrards Cross, SL9 8BQ (“the Applicant”)

Carolanne McColl, David McColl, 57 Glenmoy Terrace, Forfar, DD8 1NJ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Five thousand five hundred and thirty pounds (£5530) Sterling together with interest at the rate of four per cent per annum from the date of this decision until payment.

Background

1. By application to the Tribunal the Applicant sought an order for payment against the Respondent in respect of unpaid rent arrears in the sum of £5530 under Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”), together with interest at the rate of 4% per annum. In support of the application the Applicant provided a copy of the tenancy agreement between the parties and a rent statement.
2. By Notice of Acceptance of Application a Legal Member of the Tribunal with delegated powers of the Chamber President intimated that there were no

grounds on which to reject the application. The application was therefore referred to a Case Management Discussion (“CMD”) on 10 December 2024, to take place by teleconference. Notification was sent to the parties in accordance with Rule 17(2) of the Rules of Procedure. Said notification together with a copy of the application paperwork was served upon the Respondents by Sheriff Officers on 1 November 2024. Both parties were invited to make written representations in advance of the CMD. No representations were received from either party.

Case Management Discussion

3. The CMD took place on 10 December 2024 by teleconference. The Applicant was represented by Mr Smart of Gilson Gray. The Respondents did not attend. The Tribunal noted that they had received notification of the CMD in accordance with Rule 17(2) of the rules, and had been given the opportunity to submit written representations and participate in the CMD. The Tribunal therefore determined to proceed in their absence.
4. The Tribunal explained the purpose of the CMD and asked Mr Smart for his submissions on the application. Mr Smart referred to the paper apart submitted with the application. He confirmed that the tenancy had ended on 27 June 2024. The Respondents had failed to make payment of rent, which had resulted in arrears accruing in the sum of £5530. The Applicant was therefore seeking payment of the outstanding sum, along with interest at the rate of 4% per annum from the date of raising the application until payment. The Applicant was also seeking interest in order to mitigate the losses they had incurred in pursuing the claim.

Findings in Fact

5. The Applicant let the property to the Respondents under a tenancy agreement, which commenced on 1 September 2019.
6. In terms of Clause 8 of the said tenancy agreement the Respondents undertook to make payment of rent at the rate of £520 per calendar month.
7. The tenancy between the parties terminated on 27 June 2024.
8. As at the date of termination rent arrears in the sum of £5,530 were outstanding.
9. Despite repeated requests the Respondents have refused to pay, or have delayed in making payment of, the sum due.

Reasons for Decision

10. The Tribunal determined that it had sufficient information upon which to make a decision at the CMD and that to do so would not be prejudicial to the parties. The Respondents had made no representations regarding the application and had not participated in the CMD despite being given an opportunity to do so. Accordingly, the Tribunal did not identify any facts in dispute, nor any issues to

be resolved, that would require a hearing to be fixed. The Tribunal considered it was able to make relevant findings in fact based on the information provided by the Applicant.

11. The Tribunal was therefore satisfied based on its findings in fact that the Respondents were due to pay rent of £520 per month under the terms of the tenancy agreement which had been produced by the Applicant. The Tribunal was further satisfied, based on the rent statement submitted, that arrears of £5530 were due as at the date of termination of the tenancy. The Respondents had submitted no evidence to contradict the position put forward by the Applicant.
12. The Tribunal was further satisfied that it would be reasonable to apply interest to the sum sought at the rate of 4% per annum from the date of this decision until payment of the sum due. Whilst the Applicant had sought interest from the date of raising the application the Tribunal had regard to Rule 41A of the Rules which provides that any interest awarded must run from the date of the decision of the Tribunal.
13. Accordingly the Tribunal determined to make an order for payment in the sum of £5530 together with interest at the rate of 4% per annum from the date of this decision until payment.
14. The decision of the Tribunal was unanimous.

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.

Ruth O'Hare

10 December 2024

Legal Member/Chair

Date

