



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/19/2528

Re: Property at 163 Greenrigg Road, Cumbernauld, G67 2QB (“the Property”)

Parties:

Ms Janice Leary, c/o 93 South Bridge Street, Bathgate, West Lothian, EH48 1TJ (“the Applicant”)

Mr Lee McLaren, 163 Greenrigg Road, Cumbernauld, G67 2QB (“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 to the Applicant in the sum of £1030.00 together with interest at the rate of 3% per annum from the date of the order until payment.

Background

1. By application dated 9 August 2019 the Applicant’s representatives Bannatyne, Kirkwood France & Co applied to the Tribunal for an order for payment in respect of alleged rent arrears. They supplied the Tribunal with a copy of the Private Residential tenancy agreement, a rent statement and a Letter of Authority.
2. By Notice of Acceptance dated 22 August 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 representatives by post on 30 August 2019 and to the Respondent by Sheriff Officers on 2 September 2019.
4. No written representations were received from the Respondent in advance of the Case Management discussion. An amendment increasing the sum claimed to £1030.00 was intimated to the Respondent and the Tribunal by the Applicant's representatives on 20 September 2019.

The Case Management Discussion

5. A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on 4 October 2019. It was attended by Ms Kirsty Donnelly of the Applicant's representatives on behalf of the Applicant. The Respondent did not attend and was not represented. As the Respondent had been given proper notice of the Case Management discussion the Tribunal determined to proceed in his absence in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules").
6. Ms Donnelly referred the Tribunal to the amended rent statement provided showing the rent due by the Respondent at 1 September 2019 had increased to £1030.00. She confirmed the amendment had been sent to the Respondent by recorded delivery post on 20 September 2019 and provided the Tribunal with a copy of the posting certificate. She confirmed that no rent had been paid by the Respondent since 17 June 2019.
7. Ms Donnelly asked the Tribunal to grant an order for payment in the increased amount of £1030.00 together with interest. Ms Donnelly confirmed there was no provision within the tenancy agreement for contractual interest and therefore any award of interest was at the discretion of the Tribunal. She accepted that the Tribunal would not award the judicial rate of 8% and suggested a rate of 3% would be appropriate.

Findings in Fact

8. The parties entered into a Private Residential Tenancy agreement that commenced on 1 February 2019 at a monthly rent of £250.00.
9. The Respondent fell into arrears of rent with effect from 1 April 2019.
10. The Respondent has not paid any rent since 17 June 2019.
11. The rent arrears as at 1 September 2019 amounted to £1030.00.

12. The Applicant's representatives provided the Respondent with intimation of the amended sum claimed by recorded delivery post, dated 20 September 2019.

Reasons for Decision

13. The Tribunal was satisfied from the documents produced and the oral submissions from the Applicant's representative that the parties had entered into a Private Residential Tenancy Agreement that commenced on 1 February 2019 at a monthly rent of £250.00.
14. The Tribunal was satisfied that the Respondent had accrued rent arrears as at 1 September 2019 in the sum of £1030.00. The Tribunal was satisfied that the Applicant was entitled to an order for payment in that amount. Although the tenancy agreement made no provision for the payment of interest on sums due by the Respondent the Applicant's representatives intimated to the Respondent both in the application and in the amendment that interest was being sought. Rule 41A of the 2017 Rules provides that the Tribunal may include interest when making an order for payment either at the rate stated in the relevant tenancy agreement or at the rate stated by the Tribunal. As there was no rate stated in the Tenancy agreement the Tribunal in its discretion accepted that the rate proposed by the Applicant's representative of 3 % was in the circumstances a reasonable one and awarded interest from the date of the decision at 3%.

Decision

15. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £1030.00 with interest 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

4 October 2019

Date