



**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/19/2888

Re: Property at 3A Rubislaw Den North, Aberdeen, AB15 4AL (“the Property”)

Parties:

Ms Lucy Anna Ross, 58 Rubislaw Den South, Aberdeen, AB15 4AY (“the Applicant”)

Mr Jeremy Roy David Setter, 3A Rubislaw Den North, Aberdeen, AB15 4AL (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member)

At the Case Management Discussion (“CMD”) on 20 November 2019, the Applicant was represented by Mr Andrew Logue of Burness Paull LLP. The Respondent was present.

Background

- The Applicant is the landlord of the Property.
- The Respondent is the tenant of the Property in terms of a Tenancy Agreement signed on 24 January 2019 (“the Tenancy Agreement”).
- The start date of the tenancy is stated in the Agreement to be 7 March 2019.
- The Tenancy Agreement is stated to be a Short Assured Tenancy Agreement. The Tenancy Agreement is in fact a Private Residential Tenancy Agreement under the Private Housing (Tenancies)(Scotland) Act 2016.
- In terms of the Tenancy Agreement the rent payable by the Respondent to the Applicant was agreed to be £2,300 per calendar month payable in advance on the first day of each month.
- As at the date of the Application to the Tribunal the rent arrears accrued were stated to be £13,800 being £2,300 per calendar month from 1 April to 1 September 2019.

The Case Management Discussion

The Applicant's Submissions:-

- At the CMD Mr Logue stated that the rent arrears had increased since the Application to the Tribunal was made and now stood at £18,400, additional arrears having accrued on 1 October and 1 November 2019 each in the sum of £2,300. A Statement of Arrears was produced.
- On behalf of the Applicant Mr Logue sought an order for payment against the Respondent.
- Mr Logue also sought an order for payment of interest under Rule 41A of Part 1 of the Schedule to the First-tier Tribunal for Scotland Housing & Property Chamber (Procedure) Regulations 2017, initially at 8% per annum from the date of the Tribunal's decision but thereafter at 1% per annum from the date of the Tribunal's decision. There is no interest provision in terms of the Tenancy Agreement.

The Respondent's Submissions:-

- The Respondent accepted the arrears position to be as stated in the Statement of Arrears.
- The Respondent stated that he has been in a dialogue with the Applicant and her agents.
- He expects to be able to pay the arrears "soon" but could not say exactly when.
- The Respondent stated that he is in employment, that his employer is overseas, that he last received his monthly salary from his employer in July 2018 and that payment has been promised. He is confident that his employer will pay what is due and has received assurances but that he had not expected payment to take so long.

Reasons for Decision

- There exists between the parties a Private Residential Tenancy.
- The Respondent is in significant arrears of rent having paid nothing to the Applicant since 1 April 2019.
- As at the date of the Application to the Tribunal the arrears of rent stood at £13,800. The arrears have since increased to £18,400 as at the CMD. The arrears area admitted.
- The Respondent has had due intimation of this application in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.
- In the circumstances, the Applicant is entitled to an order for payment of rent arrears of £13,800.
- In the circumstances the Applicant is also entitled to an order for payment of interest in terms of Rule 41A. The Tribunal did not consider it reasonable to make an order for payment of interest at 8% per annum from the date of its decision but having sought a revised interest rate of 1% per annum the Tribunal considered the Applicant entitled to interest at that amount from the date of its decision.

Decision

The Applicant is entitled to an order for payment of rent arrears of £13,800 with interest on that amount at 1% per annum from today's date and the Tribunal made an order to that effect.

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.

Gillian Buchanan
Legal Member/Chair

20 November 2019

Date