



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/2774

Re: Property at 4 Cocklerow Grove, Edinburgh, EH22 1FA (“the Property”)

Parties:

PFPC MMR 1 LP, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mr Ian Mcmanus, 4 Cocklerow Grove, Edinburgh, EH22 1FA (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order in the sum of Eight thousand two hundred and forty one pounds and twenty seven pence (£8241.27) Sterling

Background

- 1 By application to the Tribunal the Applicant sought an eviction order against the Respondent in respect of the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). In support of the application the Applicant provided the following documentation:-
 - (i) Private Residential Tenancy Agreement between the parties dated 3 December 2020.
 - (ii) Rent Statement.

- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for the 7 December 2022 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.
- 3 On 2 November 2022 the Applicant's agent submitted an updated rent statement showing arrears of £8241.27 as at that date and requested amendment of the sum sought.

Case Management Discussions

- 4 The Case Management Discussion took place by teleconference on 7 December 2022. The Applicant was represented by Mr Kenneth Caldwell. The Respondent was not in attendance. The Tribunal allowed a short delay of five minutes to allow him time to join. The Tribunal thereafter noted that he had been served with the application paperwork together with notification of the date and time of the Case Management Discussion and therefore determined to proceed in his absence.
- 5 Mr Caldwell addressed the Tribunal. He advised that the private residential tenancy between the parties had commenced on 4 December 2020. The initial rent was £650 per calendar month however this was increased annually. The current rent was £689.21 per calendar month. The Respondent had fallen into arrears after a short period of time. Mr Caldwell referred to the recent rent statement submitted and confirmed that he sought an order in the sum of £8241.27 as per the amendment request which had been made timeously. He confirmed that the Applicant was not seeking expenses.

Findings in Fact and Law

- 6 The parties entered into a Private Residential Tenancy Agreement dated 3 December 2020.
- 7 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £650 per calendar month. The rent is increased annually. The current rent is £689.21 per calendar month.
- 8 As at the 2 November 2022 of the Case Management Discussion arrears in the sum of £8241.27 were outstanding.
- 9 The Respondent is liable to pay the sum of £8241.27 to the Applicant based on the terms of the tenancy agreement between the parties.
- 10 Despite repeated requests the Respondent has refused or delayed in making payment of the debt owed.

Reasons for Decision

- 11 The Tribunal was satisfied that it could make a decision at the Case Management Discussion and it would not be prejudicial to the parties. The Respondent had received proper notification of the Case Management Discussion, and the request for amendment, and the Tribunal therefore determined it could proceed in his absence. The Tribunal was further satisfied that the request for amendment had been made timeously and duly agreed to allow the sum to be increased.
- 12 Based on its findings in fact the Tribunal accepted that the Respondent had a contractual obligation to pay rent and had failed to do so, resulting in arrears of £8241.27. There was nothing before the Tribunal to contradict the position put forward by the Applicant.
- 13 The Tribunal therefore determined to make an order for payment in the sum of £8241.27 against the Respondents. 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.

7 December 2022

Legal Member: Ruth O'Hare

Date