



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/23/1426

Re: Property at 36 Goldie Crescent, Dumfries, DG2 0AJ (“the Property”)

Parties:

Mr Jonathan Peter Hamlet, 1 Caulstran Avenue, Dumfries, DG2 9FQ (“the Applicant”)

Ms Yasmin Craig, 36 Goldie Crescent, Dumfries, DG2 0AJ (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

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

- Background

This is an application for an order for payment of rent arrears alleged to be owed by the Respondent in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 10am on 25 August 2023. By teleconference. The Applicant was represented on the call by Ms Dalgleish, of Walker & Sharpe, solicitors. The Respondent was not on the call and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical issue the Respondent may have been experiencing, but there remained no contact from her.

Notice of the application and CMD was served on the Respondent by sheriff officers on 2 August 2023. The Tribunal was satisfied that the Respondent was aware of the CMD, but had chosen not to attend; and that it was therefore fair to proceed in her absence.

- Findings in Fact

The relevant facts of the case were not opposed, as follows:

1. The Respondent lets the Property from the Applicant in terms of a private residential tenancy, with a start date of 26 June 2020.
2. In terms of the tenancy agreement, rent of £575 is due on the first day of each month.
3. No interest is due on outstanding sums, in terms of the tenancy agreement.
4. As at the date of the CMD, the Respondent is in arrears of rent of £5,750.

- Reasons for Decision

5. The Applicant had applied to amend the sum sought to £5,750. This is the sum outstanding, so the application to amend was granted and an order for payment of that amount was made.
6. The Applicant requested that interest at the rate four percent per annum be added to the award. In support of that request, the Applicant pointed out that this was lower than the judicial rate of interest that would be awarded at the sheriff court and that the Applicant had been deprived of the use of the money owed for many months.
7. The Tribunal did not consider it was fair in the circumstances for it to exercise its discretion to add interest to the sum awarded. There is no provision for interest to be applied to outstanding sums in the tenancy agreement, so the

Applicant could not have expected to be entitled to it, at least in the first instance. The matter calls in conjunction with an application for an eviction order, which was granted, at least in part, on the basis that the Respondent has not demonstrated any ability to address the arrears. In those circumstances, the benefit to the Applicant of applying interest is small; and might even be characterised as being merely punitive.

- Decision

Order granted for payment by the Respondent to the Applicant of the sum of FIVE THOUSAND, SEVEN HUNDRED AND FIFTY POUNDS STERLING (£5,750).

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.

Nairn Young

25 August 2023

Legal Member/Chair

Date