



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/18/2397

Re: Property at 30 Motehill Road, Paisley, PA3 4ST (“the Property”)

Parties:

Mr Sahib Ahmed Qureshi, 51 Shieldhall Road, Glasgow, G51 4XB (“the Applicant”)

Mr Andrew Colin Scougall, 30 Motehill Road, Paisley, PA3 4ST (“the Respondent”)

Tribunal Members:

Lynsey MacDonald (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment should be granted.

1. Background

- 1.1. The Applicant sought an order for payment in respect of rent arrears. An application in terms of Rule 111 (Civil Proceedings in relation to a Private Residential Tenancy) was received by the Tribunal on 7th September 2018.
- 1.2. The Applicant separately lodged an application for an eviction order.
- 1.3. The Applicant lodged the lease dated 12th January 2018, the notice to leave dated 23rd July 2018 together with an execution of service thereof, a section 11 notice dated 6th September 2018, a rent statement and bank statements.

- 1.4. The Tribunal fixed a Case Management Discussion in respect of each case for 14th November 2018 at 1400 hours, and this was intimated to parties. The Respondent was served with the letters informing of the date fixed for the Case Management Discussion, together with the aforementioned documents, by Sheriff Officer. The Respondent was advised that written representations in response to the applications were to be lodged by 9th November 2018. No responses have been received. The Respondent was also told that he was required to attend the Case Management Discussion today, and was informed that the Tribunal could today make any decision on the application that could be made at the full Hearing, if the Tribunal had sufficient information and considered that the procedure had been fair.

2. The Case Management Discussion

- 2.1. The Applicant was represented by Ms Eilidh Crawford, Solicitor.
- 2.2. By 1400 hours the Respondent the Respondent had failed to attend at the venue. The Tribunal delayed in calling the Case Management Discussion, in order to allow extra time for the Respondent to attend in the event that he was running late. The Respondent failed to attend the Case Management Discussion.
- 2.3. The Applicant invited the Tribunal to proceed in the absence of the Respondent, and to grant both orders. The Clerk confirmed that the Respondent had not been in contact with the Tribunal to explain his absence. The Applicant confirmed that the Respondent had not made any contact with the Applicant following service of the Notice to Leave. The Tribunal was satisfied that the Respondent was aware of the Case Management Discussion, and that it was fair to proceed in his absence.
- 2.4. The Applicant advised that there was a mathematical error in the rent statement, which had indicated that the rent outstanding 12th August was £2,100 when it should be £2,400. In addition she provided an up to date rent statement confirming that there had been no rent payments since 4th May 2018.
- 2.5. The Applicant moved to amend the sum sued for to £4,200, which reflected the fact that there had been no rent payments to date. She also moved to amend the rate of interest sought to from 8% to 5% above the Royal Bank of Scotland base rate, as provided for in the lease.

- 2.6. The Tribunal proceeded on the basis of the written documents which had previously been lodged, together with oral submissions from the Applicant in respect of those documents.

3. Findings in Fact

- 3.1. The Applicant and the Respondent entered into a tenancy agreement on 12th January 2018, with the start date for the agreement being 12th January 2018. The period of the lease was for six months, and provided for monthly renewal.
- 3.2. The rent payable was £600 per calendar month.
- 3.3. The Respondent made rent payments in respect of rent due for January to April 2018. A payment for rent was made on 4th May 2018, which was in respect of rent due on 12th April 2018. The Respondent made no further rent payments in respect of the property.
- 3.4. On 24th July 2018 a Notice to Leave was served on the Respondent by Sheriff Officer, indicating that possession of the property was required by 22nd August 2018.
- 3.5. The Respondent did not vacate the property.

4. Reasons for Decision

- 4.1. There was nothing before the Tribunal challenging or disputing any of the evidence before it.
- 4.2. The Tribunal accepts the evidence of the Applicant that the sum sought is due under the terms of the lease.

5. Decision

- 5.1. The Tribunal grants the Applicant's motion to amend the sum sued for in part. The Tribunal is satisfied that it was fair to increase the sum sued for from £2,100 to £2,400 to correct the obvious mathematical error arising from the rent statement. The Tribunal refused the Applicant's motion to further amend the sum sued for to £4,200 as there was no evidence that notice had been given to the Respondent and he was not present.
- 5.2. The Tribunal grants the Applicant's motion to amend the rate of interest sought from 8% to 4% above the Royal Bank of Scotland base rate, there being no prejudice to the Respondent.

- 5.3. The order for payment in the amended sum of £2,400 is granted, together with interest thereon at the rate of 4% above the Royal Bank of Scotland base rate.

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.

Andrew Colin Scougall

Legal Member/Chair

14/11/18
Date

*Insert or Delete as required