

Housing and Property Chamber

First-tier Tribunal for Scotland



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 2014

Chamber Ref: FTS/HPC/CV/20/1539

Re: Property at 15/2 York Place Edinburgh, EH1 3EB (“the Property”)

Parties:

Breezy Springs Limited, 17 The Esplanade, St Helier, JE2 3QA (“the Applicant”),

Rettie and Co, 4 Jamaica Street, Edinburgh, EH3 6HH (“the Applicant’s Representative”), and

Mr Abdalla Khalifa, 15/2 York Place Edinburgh, EH1 3EB (“the Respondent”)

Tribunal Member:

G McWilliams- Legal Member

Decision in absence of the Respondent

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

Background

1. This is an Application for a payment order dated 17th July 2020, in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”).

2. In the Application, the Applicant sought payment of arrears in rental payments of £6475.00 in relation to the Property from the Respondent, and provided copies of the parties Private Residential Tenancy Agreement (“PRT”) and a Rent Arrears Statement.
3. The PRT had been correctly and validly prepared in terms of the provisions of The Private Housing (Tenancies) Act 2016 and the procedures set out in that Act had been correctly followed and applied.
4. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 27th August 2020, and the Tribunal was provided with the Execution of Service.

Case Management Discussion

5. A Case Management Discussion (“CMD”).proceeded remotely by telephone conference call at 11.30am on 29th September 2020. The Applicant’s Representative’s Miss I Wolinska attended. The Respondent did not attend and was not represented. Miss Wolinska stated that that the Respondent was in arrears of rent in the sum of £6089.00. Her colleague Ms V Sanderson had sent an updated Rent Arrears Statement to the Tribunal, by email on 15th September 2020, which stated that arrears amount, of £6089.00. Miss Wolinska asked the Tribunal to make an order for payment in the sum of £6089.00. She also stated that a Full Hearing, in respect of the Applicant’s Application for an eviction order against the Respondent, was due to take place on 5th October 2020.

Statement of Reasons for Decision

6. Section 71 of The Private Housing (Tenancies) Act 2016 provides as follows:

- (1) In relation to civil proceedings arising from a private residential tenancy-
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-
 - (a) the prosecution of a criminal offence,
 - (b) any proceedings related to such a prosecution.

7. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rent against a tenant (such as the Respondent) in respect of a PRT such as this.

8. The Tribunal considered the terms of the PRT and the copy Rent Arrears Statements provided, as well as the submission made by the Representative's Miss Wolinska, and was satisfied that there was an outstanding balance of rent arrears of £6089.00 due. The Tribunal was satisfied that there was no prejudice to the Respondent in granting an order for payment in a lesser amount than originally sought in the Application. The Respondent had been validly served with the Application papers, and notified of the CMD, but had not attended the CMD to make any submission opposing the order sought.

Decision

9. Accordingly, the Tribunal made an order for payment of the sum sought of £6089.00.

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.

G McWilliams

29th September 2020

Legal Member

Date