



**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/20/1190

**Re: Property at 8H Stormont House, 11 - 13 Atholl Street, Perth, Perthshire, PH1
5NH (“the Property”)**

Parties:

**Mr Andrew Whyte, c/o Clyde Property Ltd, 8 Busby Road, Clarkston, G76 7XL
 (“the Applicant”)**

Mr Liam Dawson, 1 Pringle Court, Perth, PH1 2UQ (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 111 of the Procedure Rules and concerned an Application under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 for civil proceedings in relation to a Private Residential Tenancy. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made. The Hearing took place by teleconference due to the covid-19 pandemic.

Attendance and Representation

The Applicant was not present but represented Ms Euphemia Matheson, Bannatyne Kirkwood France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG.

The Respondent was not present. He was served at his new address, 1 Pringle Court, Perth, PH1 2UQ by Sheriff Officer on 28th August 2020.

Preliminary Matters

The Applicant had postponed the 1st hearing of this Application on 24th August 2020 as the Respondent had left the property on or around 13th July 2020 to reside at 1 Pringle Court, Perth, PH1 2UQ and it was not clear whether he would have had service of this Application. Accordingly the Hearing was postponed for further service which took place on 28th August 2020. Both parties had been sent by the Tribunal documents setting out the joining instructions to the teleconference Tribunal.

There were no other preliminary matters arising.

Matters Raised

The Tribunal confirmed with the Applicant's representative that they sought a payment order in terms of the Tenancy agreement lodged and dated 5th November 2019 for non-payment of rent amounting to the sum of £2240.29. The evidence in the Application confirmed the Applicant's position and included a rent statement detailing rent due and noting the sum sought was £2250. The Applicant sought a reduced sum due to a final reconciliation regarding the account in regards the deposit. The sum sought being less than the sum in the Application the Tribunal allowed the sum to be amended and noted that in the interests of justice and the overriding objective that there was no prejudice to the Respondent on the basis the sum sought was less than the sum intimated on him.

There were no other matters arising.

Decision (In absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted an order against the Respondents to the Applicant for payment of the sum of £2240.29, with interest thereon at the rate of 4% per annum running from 21st September 2020, until payment, under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective.**
- 2. The Tribunal was satisfied the Respondent had been served by Sheriff Officer on 28th August 2020.**
- 3. The Tribunal was satisfied that the relevant tenancy was in terms of the 2016 Act, a Private Residential Tenancy properly constituted and dated 5th November 2019. The Tribunal was further satisfied that the**

rent due was £450 per month and on the evidence before the Tribunal rental arrears had accrued in terms of this tenancy to the sum of £2250 as at May 2020. Rental evidence had been lodged by the Applicant evidencing the rent due.

4. The Applicant sought payment of a slightly reduced sum and on the evidence given to the Tribunal it was satisfied in terms of the overriding objective that the sum sought be amended to £2240.29.
5. Accordingly in terms of 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted a payment order against the Respondent for the sum of £2240. Interest had been sought in the Application and the Tribunal granted the payment order with interest thereon at the rate of 4% per annum running from the date of the decision.

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.

Karen Kirk
Legal Member/Chair

21/09/2020

Date