



**Decision 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/22/1023

Re: Property at Flat 2/1, 26 Belsyde Avenue, Glasgow, G15 6AR (“the Property”)

Parties:

Mr Edward Baillie, 3 White City Close, London, W12 7EB (“the Applicant”)

[REDACTED] (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £3,576.11.

Background

1. The Applicant submitted an application under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) for payment in respect of rent arrears said to have been incurred by the Respondent.
2. This case previously called for case management discussions (CMDs) on 7 July 2022 and 4 October 2022 and a Hearing on 12 January 2023 Reference is made to the Notes issued following those CMDs and Hearing.
3. On 31 March 2023, the Tribunal received an email from the Applicant’s representative containing a copy email sent to the Respondent’s representative on the same day.

4. On 13 April 2023, the Tribunal received an email from the Applicant's representative containing a copy email sent to the Respondent's representative on the same day.

The Hearing

5. The Hearing took place by conference call. The Applicant was represented by Mr Cairns. The Respondent participated personally in the Hearing. She was represented by Mr Mahood. The Applicant's representative moved to amend the sum sued for to £3,576.11 and relied upon the updated rent statement lodged dated 13 April 2023 which had been intimated to the Respondent's representative. The Respondent's representative explained that the Respondent accepts that rent arrears are due as reflected in the updated rent statement. However, the Respondent maintained that the application was incompetent on the basis that it fails to meet the requirements of Rule 111(c). It was submitted that the application was not signed by the person making the application. It was submitted that Rules 109 and 110 make provision for a representative to sign the application, but Rule 111 does not have a similar provision. The Applicant's position was that the Applicant authorised Fineholm Letting Services Ltd to act on his behalf. The application form was completed by Miss Leanne Reid of Fineholm Letting Services Ltd and signed by her. The application was then submitted to the Tribunal by Miss Reid on 12 April 2022.
6. The Tribunal adjourned briefly for 2 reasons; the first was that the Tribunal members had not yet had sight of the updated rent statement. The Applicant's representative explained that he had sent the updated rent statement to the Tribunal and it had been intimated to the Respondent's representative. The other reason to adjourn was to enable the Tribunal members to consider the submissions made about the competency of the application. When the Hearing reconvened, the Tribunal explained that it was satisfied that the application was competent and the Respondent's submission was therefore repelled. That decision having been reached, and on the basis that the Respondent accepted that the sum sought was due, the Tribunal granted the Applicant's motion to amend the sum sued for to £3,576.11 and granted an order for payment against the Respondent in that sum.
7. The Respondent's representative moved the Tribunal to anonymise the Respondent in the written decision to be issued. It was submitted that the Respondent is a victim of domestic violence. The Respondent's former husband does not know where she lives. The Respondent is fearful that if the written decision containing her name and address is published, there may be reprisals from her former husband or his members of his family.

Findings in fact

8. The parties entered into a private residential tenancy which commenced 13 September 2019.
9. The contractual monthly rent is £495, payable in advance.
10. The Respondent has incurred rent arrears amounting to £3,576.11.

Reasons for Decision

11. In considering the competence of the application, the Tribunal had regard to the following Rules:-

Rule 5 (2) which provides:-

The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.

Rule 111 which provides:-

Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 Act, the application must—

(a) state—

- (i) the name and address of the person;*
- (ii) the name and address of any other party; and*
- (iii) the reason for making the application;*

(b) be accompanied by—

- (i) evidence to support the application; and*
- (ii) a copy of any relevant document; and*

(c) be signed and dated by the person.

Rule 109 which provides:-

Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

(a) state—

(i) the name, address and registration number (if any) of the landlord;

(ii) the name, address and profession of any representative of the landlord;

(iii) the name and address of the tenant; and

(iv) the ground or grounds for eviction;

(b) be accompanied by—

(i) evidence showing that the eviction ground or grounds has been met;

(ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and

(iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and

(c) be signed and dated by the landlord or a representative of the landlord.

12. On 26 April 2022, a legal member of the Tribunal, acting under the delegated powers of the Chamber President determined that the mandatory requirements had been met and the application was accepted.

13. Rule 111 provides for a **person** making an application and that **person** is required to sign and date the application. The rule does not provide that the Applicant has to make the application, nor that the Applicant has to sign the application. The information before the Tribunal was that Miss Leeanne Reid completed the form F, signed and dated it and submitted the application. The Tribunal was of the view that the **person** who made the application was Miss Reid and she signed and dated the form.

14. The Respondent's representative referred to Rule 109 for comparison purposes, because Rule 109 (c) makes provision for the application to be signed and dated by the landlord or a representative of the landlord. However, Rule 109 is predicated on the landlord making the application, rather than a person making the application. The Tribunal was not persuaded that the terms of Rule 109 supported the Respondent's submission.

15. The Tribunal also had regard to the guidance form available on the Housing and Property Chamber website to assist parties submitting a form F. At section 7 of the guidance note, it states "The application form should be signed and dated by the applicant(s) or their representative."

16. The Tribunal having been satisfied that the application was competent, granted the Applicant's motion to amend the sum sued for. Given that the Respondent accepted that the sum is due, the Tribunal granted an order in favour of the Applicant for £3,576.11.

17. In relation to the motion made to anonymise the Respondent, the Tribunal considered Rule 26(10) of the Procedure Rules which provides that “A decision of the First-tier Tribunal with a statement of reasons (if prepared) or note given under paragraph (8) must be published.”
18. There is no rule which provides for anonymising any aspects of a decision. However, the overriding objective of the Procedure Rules is to deal with the proceedings justly.
19. There was no opposition to the motion to anonymise the Respondent. The Tribunal must balance the public interest and the need for anonymity in certain situations. It is in the interests of justice that the Respondent’s name is anonymised in the written decision for the reasons advanced by the Respondent’s representative.
20. The Tribunal granted the motion to anonymise the Respondent and therefore the Respondent’s name has been redacted in this 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal’s decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



Legal Member/Chair

18 April 2023

Date