

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/22/4467

Re: Property at 97A Appin Crescent, Dunfermline, Fife, KY12 7QT (“the Property”)

Parties:

Mr Michael Ryan, 18 Powlees Place, Falkirk, FK2 8FA (“the Applicant”)

**Mr Leslie James Bateson, 97A Appin Crescent, Dunfermline, Fife, KY12 7QT
 (“the Respondent”)**

Tribunal Members:

Karen Kirk (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent for £5750 with interest at 3 percent from the date of the decision.

Introduction.

This Hearing concerned an Application under application for Civil Proceedings under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to a Private Rented Tenancy. The hearing took place by teleconference.

1. Attendance and Representation.

John Jarvie, Bannatyne Kirkwood France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG attended on behalf of the Applicant. The Applicant was not in attendance.

The Respondent was not in attendance. He had been served by Sheriff Officer on 9th February 2023. He had also engaged with the Tribunal seeking a postponement of an earlier Hearing that the Tribunal had granted to today's date. No written representations had been received other than related to the said postponement request.

2. Preliminary Matters.

The Respondent was not present. The Applicant's representative said that on in March 2023 the letting agent had contact with the Respondent but he was not aware of the content of same.

This Application called alongside an Application for Eviction concerning the same parties.

The Applicant's representative confirmed that the rent arrears for the property were now £5750 as at 12th May 2023. The Applicant's representative referred to the application for amendment he had lodged with the Tribunal with an up to date rent statement. The Applicant had intimated on the Respondent and the Applicant's representative sought to amend the sum sought to £5750. The Tribunal amended the sum sought in the application to £5750.

There were no other preliminary matters raised.

3. Case Management Discussion

The Applicant's representative confirmed the Applicant sought a Payment Order for the sum of £5750. The Applicant seeks to recover the arrears from the Respondent for the property. as at 12th May 2023. The payment order sought was £5750 full as the amount of arrears as per the rent statement of 12th May 2023. The Applicant's representative sought interest at a rate of 3 percent above the base rate to reflect the used value of the property during the duration of the arrears and to reflect rises in interest.

4. Findings in Fact and Reasons for Decision.

1. This Application is dated 21st December 2022 and brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicant is the heritable propriety of the property at 97A Appin Crescent, Dunfermline, Fife, KY12 7QT.

3. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 4th March 2022.
4. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
5. Rent payable under this tenancy was £575 per month.
6. As at the rent statement lodged on 12th May 2023 the rent due by the Respondent to the Applicant was £5750.
7. The Tribunal considered it was appropriate in terms of Regulation 41A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended to order having regard to the overriding objective interest on the sum of £5750 at the rate of three percent from the date of the decision.
8. The Tribunal had regard to the whole circumstances of the case, the overriding objective and the interests of justice to determine the interest which was appropriate.

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

26/05/2023

Legal Member/Chair

Date