

**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) 2016**

Chamber Ref: FTS/HPC/CV/22/4449

Re: Property at 48 Main Street, Aberchirder, AB54 7SY (“the Property”)

Parties:

**Ms Heather Sweeney, Reidswell Farm, Fortire, Turriff, Aberdeenshire, AB53 4HR
 (“the Applicant”)**

Mr Ricardo McMillan, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £2939.28.

Background

1. By application dated 13 December 2022 the Applicant’s representatives, Stewart & Watson, Solicitors, Banff, applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representatives submitted a copy of the tenancy agreement, rent statement, Notice to Leave, correspondence to Respondent and Sheriff Officer’s Certificate of Service in support of the application.
2. By Notice of Acceptance dated 5 January 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. An attempt to intimate the CMD to take place on 23 March 2023 on the Respondent by Sheriff Officers was unsuccessful as he had removed from the property and was adjourned.
4. Intimation of a further CMD was by Service by Advertisement on the Housing and Property Chamber website as his address was unknown.
5. The Applicant's representatives submitted written representations together with an updated rent statement by email on 12 April 2023 advising that the rent due had been recalculated to be £3368.54.
6. A CMD was held by teleconference on 4 May 2023. The Applicant did not attend but was represented by Mr Alan Duffill from the Applicant's representatives. The Respondent did not attend nor was he represented. Mr Duffill asked the Tribunal to allow the sum claimed to be increased to £3368.54 but as the amendment had not been intimated to the Respondent it was continued to allow Mr Duffill to do this and the CMD adjourned.
7. By email dated 8 June 2023 the Applicant's representatives submitted further written representations confirming intimation of the proposed amendment on the Respondent.
8. Intimation to the Respondent of the adjourned CMD to take place on 27 June 2023 was by Service by Advertisement on the Housing and Property Chamber website.

The Case Management Discussion

9. A CMD was held by teleconference on 27 June 2023. The Applicant was represented by Mr Duffill. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in his absence.
10. Mr Duffill advised the Tribunal that the application to amend the sum claimed to £3368.54 had been served on the Respondent by Sheriff Officers and referred the Tribunal to the documents submitted by email on 8 June 2023. He asked the Tribunal to allow the sum claimed to be amended to £3368.54. thereafter Mr Duffill went on to say that the Respondent had in fact vacated the property earlier than 3 March 2023 and that the actual sum due was £2939.28 and he asked the Tribunal to grant an order for payment in that restricted amount.

Findings in Fact

11. The Respondent owed rent of £2939.28 as at the end of the tenancy and this amount was still outstanding at the date of the CMD.

Reasons for Decision

12. Intimation of the CMD on the Respondent was by way of Service by Advertisement however the Applicant's representatives had also provided the Respondent with details of the date and time of the CMD and how to dial-in. The Tribunal was therefore satisfied that the Respondent had sufficient information to allow him to participate in the proceedings if he wished.
13. The Tribunal was satisfied from the documents produced that proper intimation of the application to amend the sum claimed had been given to the Respondent and accordingly allowed the amendment.
14. The Tribunal was satisfied from the written representations and documents submitted by the Applicant's representatives together with the oral submissions that the Respondent owed rent of £2939 54 and was entitled to an order for payment by the Respondent in the sum of £2939.28.

Decision

15. The Tribunal finds the applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £2939.28.

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.

Graham Harding

**Graham Harding
Legal Member/Chair**

Date: 27 June 2023