



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71 Private Housing
(Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

Chamber Ref: FTS/HPC/CV/21/2896

Re: Property at Flat 7, 49 Ferniesyde Court, Larbert, FK2 8FW (“the Property”)

Parties:

Miss Karen Simpson, Apt C28, Punta Europa, Malabo, Equatorial Guinea (“the Applicant”)

Miss Michelle Dawson, Flat 7, 49 Ferniesyde Court, Larbert, FK2 8FW (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the sum of £3000 should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks a payment order for unpaid rent in terms of Section 71 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”). Documents lodged in support of the application include a copy private residential tenancy agreement, rent statement, an email from Falkirk Council confirming that the Applicant is a registered private landlord, letter from Ralph Hendrie Legal dated 12 October 2021 confirming that they had verified the identity of the Applicant when she became their client, copy fee note from Ralph Hendrie for the purchase of the property addressed to the Applicant, redacted copy disposition of the property by Cala Homes, title sheet from Registers of Scotland dated 6 October 2021 stating that the Applicant’s application for registration is pending and email correspondence with the Respondent. A related application under Chamber reference EV/22/2895 (“the eviction

application”) was also lodged.

2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer on 2 March 2022. Both parties were notified that a case management discussion (“CMD”) would take place by telephone case conference on 19 April 2022 at 10am and they were required to participate. On 19 March 2022 the Respondent submitted a letter to the Tribunal. Although previously advised that the Tribunal would only consider submissions which were crossed over to the other party the Respondent stipulated that the letter was not to be passed on to the Applicant. In any event, most of the letter was irrelevant to the applications which were being considered. Prior to the CMD the Applicant’s representative advised the Tribunal that no rent had been paid for February and March 2022 and that the sum now being claimed was £3000. They also submitted an unredacted copy of the disposition in favour of the Applicant, a copy of an email from the Applicant dated 27 March 2022 requesting an up-to-date valuation of the property and a copy of the updated marketing proposal prepared by the selling agent.
3. The CMD took place on 19 April 2022 at 10am by telephone conference call. The Applicant was represented by Mrs McLaughlin and Mr Neary. The related eviction application also called for a CMD. The Respondent did not participate and did not contact the Tribunal in advance of the CMD.

Case Management Discussion

4. Mrs McLaughlin advised the Tribunal that there has been no contact from the Respondent since December 2021. She has failed to respond to letters and emails. She has failed to provide access for the gas safety check and boiler service, both of which are overdue, and a right of entry application is currently being considered by the Tribunal.
5. Mrs McLaughlin advised the Tribunal that the Applicant wishes to amend the sum claimed in the application to £3000. A previous order was granted by the Tribunal for the sum of £5250. This related to rent arrears for the period 1 May 2021 to 1 November 2021. Since then, the Respondent has failed to pay rent for the period 1 December 2021 to 1 March 2022. There has been no contact from her, or payments made to current rent or the sum due in terms of the payment order. In response to questions from the Tribunal, Mrs McLaughlin said that the Applicant would be willing to consider a repayment arrangement with the Respondent, but no offer has been made. She has not yet instructed the Sheriff Officers to enforce the previous order. She confirmed that a payment order is sought for the sum of £3000.

Findings in Fact

6. The Applicant is the owner and landlord of the property.

7. The Respondent is the tenant of the property in terms of a private residential tenancy agreement. In terms of the tenancy agreement rent is due to be paid at the rate of £750 per calendar month.
8. The Respondent owes the sum of £3000 in unpaid rent.

Reasons for Decision

9. Having considered the documents lodged with the application and the information provided by the Applicant at the CMD the Tribunal is satisfied that the Respondent owes the sum of £3000 in unpaid rent and that the Applicant is entitled to a payment order for this sum.

Decision

10. The Tribunal determines that an order for payment for the sum of £3000 order should be granted against the Respondent.

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.


Josephine Bonnar, Legal Member
Date: 22 April 2022