



Decision with Statement of Reasons 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/21/1748

Re: Property at 6 Birch Road, Parkhall, Clydebank, G81 3NZ (“the Property”)

Parties:

Mr Barry Kilpatrick, 41 Campsie Drive, Bearsden, Glasgow, G61 3JA (“the Applicant”)

Ms Sheena Little, 6 Birch Road, Parkhall, Clydebank, G81 3NZ (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This was an application for a payment order dated 19th July 2021 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant originally sought in his application payment of arrears in rental payments of £1,650.00 in relation to the Property from the Respondent, and provided with his application copies of the private residential tenancy agreement and rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and

the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 9th November 2021, and the Tribunal was provided with the execution of service.

The Applicant subsequently on 18th November 2021 provided an updated rent arrears statement showing arrears at that date of £3,850.00, which figure he sought to amend into his application.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 15th December 2021 by Tele-Conference. The Applicant did not participate, but was represented by Miss Gabriel, letting agent. The Respondent did not participate, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Miss Gabriel with reference to the application and papers to grant an order for payment of the sum of £3,850.00, which remains the sum outstanding as of 15th December 2021. The tenancy commenced on 18th December 2018, and a further tenancy agreement on identical terms was entered into commencing 18th June 2021 after the parties were unable to locate the original lease agreement.

Miss Gabriel indicated that she had received information that the Respondent might have quit the Property in the last couple of days, but she had no detailed information about that.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

“First-tier Tribunal's jurisdiction

- (1) In relation to civil proceedings arising from a private residential tenancy—
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than—

- (a) the prosecution of a criminal offence,
- (b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the rent arrears information provided, and the submissions made by the Applicant, and was satisfied that these disclosed an outstanding balance of rent arrears of the sum sought of £3,850.00, which sum remains outstanding. Rental of £550.00 per month was payable in advance in terms of clause 8 of the private residential tenancy agreement.

Decision

In these circumstances, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of £3,850.00.

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.

Neil Kinnear

15th December 2021

Legal Member/Chair

Date