



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 Reference Number: FTS/HPC/CV/21/0088

Re: Property at 81 Glebe Road, Whitburn, West Lothian, EH47 0AY (“the Property”)

Parties:

**Mr Robert Gillies, 7/42 Murieston Road, Edinburgh, EH11 2JJ (“the Applicant”)
and**

**Ms Margaret Heyburn, 25 Dixon Road, Whitburn, West Lothian, EH27 0HX
 (“the Respondent”)**

Tribunal Member:

G McWilliams- Legal Member

Decision:

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

Background

1. This is an Application for a payment order, contained within papers lodged with the Tribunal on 15th January 2021, 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 Rules of Procedure (“the 2017 Rules”).
2. In the Application, the Applicant sought payment of arrears in rental payments of £867.11, together with a tracing agents’ fee of £54.00 and a skip hire cost of £210.00, totalling £1131.11, in relation to the Property from the Respondent. The Applicant provided copies of the parties Private Residential Tenancy Agreement (“PRT”) and a Rent Arrears Statement as well as copy

Buchanan Skip Hire Ltd fee note dated 13th August 2020 and copy Find UK People tracing agents' order and receipted fee, dated 1st November 2020.

3. The parties' PRT had been correctly and validly prepared in terms of the provisions of The Private Housing (Tenancies) Act 2016 and the procedures set out in that Act had been correctly followed and applied.
4. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 28th January 2021, and the Tribunal was provided with the Certificate of Intimation.

Case Management Discussion

5. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call this afternoon, 2nd March 2021. The Applicant attended. The Respondent did not attend and was not represented. The Respondent had not lodged any representations with the Tribunal in advance of the CMD. The Applicant stated that he sought a payment order in the total sum of £1131.11, in respect of the rent arrears, tracing agents' fee and skip hire cost, referred to above. He stated that the outstanding rent was in the sum claimed, of £867.11. He submitted that the costs to Buchanan Skip Hire Ltd and Find UK People had been validly incurred by him in having to clear abandoned contents left in the Property, after the Respondent vacated the Property and he was able to attend there in July 2020, and also in having to trace the Respondent to seek to recover monies from her.

Statement of Reasons for Decision

6. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides as follows:

(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.

7. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rent and other costs against a tenant (such as the Respondent) in respect of a PRT such as this.

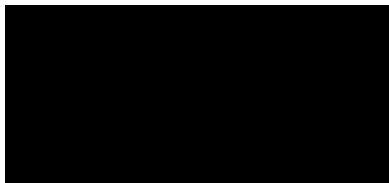
8. The Respondent had been validly served with all of the Application papers, and notified of the CMD, but had not lodged representations with the Tribunal, or attended the CMD to provide evidence, and/or make any submission, opposing the order sought. The Tribunal considered the terms of the PRT and the copy Rent Arrears Statement, skip hire fee note and tracing agents' order and fee provided, as well as the submission made by the Applicant today. Having done so, the Tribunal was satisfied that there was outstanding rent due of £867.11. The Tribunal was also satisfied that the skip hire and tracing agents' fees, in the sums of £210.00 and £54.00 respectively, had been incurred by the Applicant as a result of actions of the Respondent, in breach of the parties PRT. Accordingly the Tribunal determined that it was just to make a payment order which included the rent arrears and skip hire and tracing agents' fees, in the total sum of £1131.11.

Decision

9. Accordingly, the Tribunal made an order for payment of the sum of £1131.11.

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.



2nd March 2021

Legal Member

Date