

Housing and Property Chamber
First-tier Tribunal for Scotland



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) Act 2016 (“2016 Act”)

Chamber Ref: FTS/HPC/CV/23/0540

**Re: 1/2 11 Sinclair Drive, Glasgow, G42 9PR
 (“the Property”)**

Parties:

**The late Mr Stuart Ronald Wilson, formerly of 10/166 Therkrasette Road, Naiyang 13/3 1, Phuket, 83110, Thailand
 (“the Applicant”)**

**Mrs Annette Warwell, 1/2 11 Sinclair Drive, Glasgow, G42 9PR
 (“the Respondent”)**

Tribunal Members:

Pamela Woodman (Legal Member) and Elizabeth Williams (Ordinary Member)

Present:

The hearing in relation to case reference FTS/HPC/CV/23/0540 took place at 10am on Thursday 2 November 2023 by teleconference call (“**the CMD**”). The Applicant was represented by Rory Mellis of Thorntons Law LLP (“**Applicant’s Representatives**”). The Respondent was represented by Maureen Smith of Castlemilk Law Centre (“**Respondent’s Representatives**”). The clerk to the Tribunal was Ronald Lee. This case was conjoined with case reference FTS/HPC/EV/23/0823 and heard at the same time.

BACKGROUND

1. An application was made to the Tribunal under section 71(1) of the 2016 Act and in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“**HPC Rules**”) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 111 (*Application for civil proceedings in relation to a private residential tenancy*) of the HPC Rules.

2. The order sought from the Tribunal was an order for payment against the Respondent in respect of the Property.
3. In addition to the application form, copies of the following were provided by the Applicant's Representatives:
 - a. Private residential tenancy agreement between the Applicant and the Respondent signed by the Respondent on 5 January 2021 but unsigned by the Applicant ("**Tenancy Agreement**");
 - b. A rent payment schedule dated 19 August 2023 which showed arrears of rent of £1,000.06 as at 1 February 2023.
4. A notice of acceptance of the application was issued dated 23 May 2023 under rule 9 of the HPC Rules, which confirmed that the application paperwork had been received by the Tribunal between 21 February and 25 April 2023.
5. A case management discussion ("CMD") was held on 20 July 2023 at which both the Applicant and the Respondent were represented. Directions were issued to the parties dated 20 July 2023.
6. The Tribunal was satisfied that the Applicant's Representatives were duly authorised by the executors of the Applicant, Balfour & Manson Trustees, to pursue the application.
7. This decision arises out of the hearing.

Proceedings

8. Ms Smith noted that the Respondent had tried to make payment of the £1,000.06 (as she had indicated she would be willing to pay in the time to pay application submitted in advance of the CMD) but that the payment had been returned and that she had assumed this may have been linked to the account holder having died. Ms Smith noted that the Respondent was keen to make payment of the amount due. Ms Smith confirmed that the Respondent had the lump sum available to make payment of this amount.
9. Mr Mellis confirmed that he would liaise with the executors for bank account details and provide them to Ms Smith.
10. Mr Mellis confirmed that no application to amend the sum claimed (i.e. £1,000.06) had been made because the executors had only last week been able to confirm the latest financial position and so any application would have been within 14 days of the hearing.
11. Mr Mellis confirmed that payments of universal credit had continued to be made towards the rent but the balancing payments had not been being made by the Respondent. Accordingly, he confirmed that the sum sought in the present case was £1,000.06 but that he would ask that it be left open to allow any further arrears to be sought at a later date.

FINDINGS

12. The Tribunal noted that:

- a. The Tenancy Agreement provided for rent to be paid at a rate of £235 per calendar month;
- b. The rent statement showed arrears of rent of £1,000.06 as at 1 February 2023; and
- c. The application for time to pay had confirmed that the amount of £1,000.06 was outstanding.

13. Ms Smith had confirmed at the CMD that there were arrears of £1,000.06 as at 1 February 2023 as claimed.

REASON FOR DECISION

14. The Tribunal was satisfied, on the balance of probabilities, that arrears of rent of £1,000.06 were outstanding as at 1 February 2023 and that this amount was still outstanding.

15. Accordingly, the Tribunal found that £1,000.06 was due and payable by the Respondent to the Applicant (or his executors) in respect of rent as at 1 February 2023.

DECISION

16. The Tribunal ordered the Respondent to pay the sum of £1,000.06 to the Applicant.

17. The Tribunal noted that this decision does not prohibit the Applicant (or his executors) from making a further application for any amounts due and payable by the Respondent after 1 February 2023.

Right of Appeal

In terms of Section 46 of the Tribunals (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.



Pamela Woodman

Chair

2 November 2023

Date