



**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**

**Chamber Ref: FTS/HPC/CV/23/2675**

**Re: Property at 119 Elphinstone Crescent, East Kilbride, G75 0PR (“the Property”)**

**Parties:**

**Mr Colin English, 94 Maxwellton Avenue, East Kilbride, G74 3DY (“the Applicant”) and**

**Mr Ronald Wright formerly residing at 119 Elphinstone Crescent, East Kilbride, G75 0PR and whose present address is unknown (“the Respondent”)**

**Tribunal Member:**

**G McWilliams- Legal Member**

**Decision in absence of the Respondent**

**Background**

- 1. The Applicant had applied under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”) (Application for civil proceedings in relation to a private residential tenancy) for an order for payment in respect of rent arrears.**

**Case Management Discussion**

- 2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call on 28<sup>th</sup> November 2023 at 11.30am. The Applicant, Mr English, attended. The Respondent, Mr Wright, did not attend and was not represented. Sheriff Officers intimated the Application papers on Mr Wright by letterbox service on 20<sup>th</sup> October 2023. Mr Wright was formally evicted from the Property on 8<sup>th</sup> November 2023**

in terms of the Tribunal's previous decision on 19<sup>th</sup> September 2023 (Application number EV/23/1940).

3. Mr English stated that he was previously granted an order for payment of rent arrears against Mr Wright, arising from the parties' private residential tenancy agreement ("PRT") relating to the Property, on 16<sup>th</sup> June 2023. The order for payment granted then was in the sum of £1,550.00, in respect of outstanding rent due to February 2023. Mr English, in this Application, originally claimed payment of rent of £1,980.00 to August 2023. The monthly rental amount due, in terms of the PRT, was £330.00 and no other payments of rent were made between March and November 2023 when Mr Wright left the Property. Mr English accordingly sought payment of an apportioned outstanding rent amount of £2,720.00.
4. Mr English also stated that he was presently carrying out remedial works to the Property, following his recovery of possession on 8<sup>th</sup> November 2023. In his e-mail to the Tribunal's Office, dated 12<sup>th</sup> November 2023, Mr English had estimated his refurbishment cost at £1,550.00. Mr English accepted that Mr Wright was not aware of this additional claim. Mr English said that he is continuing to incur further cost in relation to necessary works. He stated that he will consider submitting a claim in respect of the total cost of remedial works at a later date.
5. Mr English further stated that he was unaware of Mr Wright's current address. He said that he intended to try to find this out in order to enforce Tribunal orders, also at a later date.

#### **Statement of Reasons for Decision**

6. In reaching their decision the Tribunal had regard to the terms of Section 71 of The Private Housing (Tenancies) 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 against a tenant (such as the Respondent) in respect of a PRT.

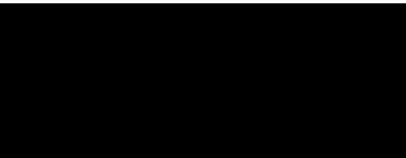
8. The Tribunal considered all of the Application papers, and the submissions of Mr English. Having done so, the Tribunal found in fact, on a balance of probabilities, and in law that Mr Wright owes rent arrears, arising from the parties' PRT, in the sum of £2720.00. Mr Wright had not lodged representations with the Tribunal or attended the CMD to provide any evidence, and/or make any submission, to oppose and contradict the basis for the order sought by Mr English. Accordingly, the Tribunal was satisfied that it was reasonable to grant an order for payment by the Respondent, Mr Wright, to the Applicant, Mr English, in the sum of £2720.00

### **Decision**

9. Therefore, the Tribunal made an order for payment by the Respondent, Mr Wright, to the Applicant, Mr English, of the sum of TWO THOUSAND SEVEN HUNDRED AND TWENTY POUNDS (£2720.00) STERLING.

### **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.



**G McWilliams**

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**Legal Member**

**28<sup>th</sup> November 2023**

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**Date**