

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

Chamber Ref: FTS/HPC/CV/23/2858

Re: Property at 8F Shore Street, Campbeltown, PA28 6BS (“the Property”)

Parties:

Real Estate Wealth Development Limited, REWD Group HQ, Unit 4 Barons Court, Grangemouth, FK3 8BH (“the Applicant”) and

Anderson Strathern LLP, George House, 50 George Square, Glasgow, G2 1EH (“the Applicant’s Representative”) and

Mrs Elizabeth McKinven, residing at 11C Kirk Street, Campbeltown, PA28 6BL (“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 28th November 2023 at 2.00pm. The Applicant’s Representative’s Mr A. Richmond attended. The Respondent did not attend and was not represented. Sheriff Officers had served the Application on Mrs McKinven at the address given for her by the Applicant’s Representative, of 11C Kirk Street, Campbeltown, having established that she resided at that address, on 24th October 2023.**
- 3. Mr Richmond stated that Mrs McKinven had left the Property in July 2023. He referred to the Rent Payment Schedule lodged with the Application, which showed arrears of rent owing at 20th July 2023 in the sum of £3,110.04. Mr Richmond submitted that it was appropriate for the Tribunal to grant an order for the Respondent Mrs McKinven’s payment to the Applicant of the amount of £3,110.04 in respect of those rent arrears.**

Statement of Reasons for Decision

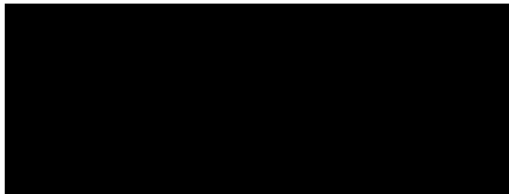
- 4. In reaching their decision the Tribunal had regard to the terms of Section 71 of The Private Housing (Tenancies) Act 2016 provides as follows:**
 - (1) In relation to civil proceedings arising from a private residential tenancy-**
 - (a) the First-tier Tribunal has whatever competence and jurisdiction 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.**
- 5. 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 Private Residential Tenancy Agreement (“PRT”).**
- 6. The Tribunal considered all of the Application papers, and the submission of Mr Richmond. Having done so, the Tribunal found in fact, on a balance of probabilities, and in law that the Respondent owes rent arrears, arising from the parties’ PRT, in the sum of £3110.04. The Respondent 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 the Applicant. Accordingly, the Tribunal was satisfied that it was reasonable to grant an order for payment by the Respondent to the Applicant in the sum of £3110.04**

Decision

7. Therefore, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of THREE THOUSAND ONE HUNDRED AND TEN POUNDS AND FOUR PENCE (£3110.04) 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.



Legal Member

28th November 2023

Date