

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 of The Private Housing (Tenancies) Act 2016

Case Reference: FTS/HPC/CV/24/1462

Re: Property at 27 Ryat Green, Newton Mearns, G77 6QP (the Property”)

Parties:

Mr Senthil Ramalingam, 12 Eagle Avenue, Newton Mearns, G77 6WN (“the Applicant) and

Premier Properties, 7a Church Street, Uddingston, G71 7PT (“the Applicant’s Representative”) and

Mr Justin Forster, formerly residing at 27 Ryat Green, Newton Mearns, G77 6QP and whose present address is unknown (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

A. Khan – Ordinary 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 at 10.00am on 27th November 2024. The Applicant’s Representative’s Mr S. Kiernan, attended. The Respondent, Mr Forster, did not attend and was not represented. Sheriff Officers had attempted service of the Application on the Respondent at the Property on 22nd October 2024. The Sheriff Officers’ service was unsuccessful as they found the Property to be unoccupied. The Tribunal’s office then arranged for service of the Application, and notification of the CMD, papers on Mr Forster by advertisement on the Tribunal’s website from 31st October 2024.**
- 3. Mr Kiernan said that neither he nor the Applicant are aware of Mr Forster’s current address. He stated that the Representative, on behalf of the Applicant, had recovered possession of the Property on 31st October 2024. They had taken advice from the Scottish Landlords Association and treated the parties’ tenancy as having been abandoned by Mr Forster. Mr Kiernan sought an order for payment by Mr Forster to the Applicant, Mr Ramalingam, of outstanding rent arrears in the sum of £4,635.00, being the amount referred to in Mr Kiernan’s e-mail to the Tribunal’s office dated 5th September 2024. He said that the Applicant would be content with an order for payment in this amount and can decide at a later date whether or not to seek payment of further outstanding rent due to 31st October 2024 in an additional Application to the Tribunal.**

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 (“PRT”).**

6. The Tribunal considered all of the Application papers, and the submission of Mr Kiernan. Having done so, the Tribunal found in fact, on a balance of probabilities, and in law that Mr Forster owes rent arrears, arising from the parties' PRT, in the sum of £4,635.00 and is obliged, in terms of the parties' PRT, to pay the arrears to Mr Ramalingam. Mr Forster 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 order sought by the Applicant, and his basis for seeking the grant of an order. Accordingly, the Tribunal was satisfied that it was reasonable to grant an order for payment by the Respondent, Mr Forster, to the Applicant, Mr Ramalingam, in the sum of £4,635.00.

Decision

7. Therefore, the Tribunal made an order for payment by the Respondent, Mr Justin Forster, to the Applicant, Mr Senthil Ramalingam, of the sum of FOUR THOUSAND SIX HUNDRED AND THIRTY FIVE POUNDS (£4,635.00) 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

27th November 2024

Legal Member

Date