



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 Ref: FTS/HPC/CV/24/2291

Re: Property at Middle Cottage, Kirklandrigg, Dalton, Lockerbie, DG11 1DW (“the Property”)

Parties:

Mr Alexander Murray, Murraythwaite, Dalton, Lockerbie, DG11 1DW (“the Applicant”)

Mr Mark S Walker-Jones, 15 Craginair Park, Annan, DG12 6ND (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of THREE THOUSAND FIVE HUNDRED AND SEVENTY FOUR POUNDS (£3574) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an action for rent arrears raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 15 August 2023, letters to the Respondent dated 15 November 2023 and 30 January 2024, a Certificate of Confirmation and Doquet in favour of the Executors of the late Mrs Anne Marion Holt dated 20 July 2011 and registered in the Books of Council and

Session on 12 January 2012 and a rent statement showing arrears of £3574 to 20 May 2024.

3. On 11 July 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 15 January 2025 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 5 February 2025. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 26 February 2025. This paperwork was served on the Respondent by Ellie McConnachie, Sheriff Officer, Edinburgh on 16 January 2025 at the Respondent’s new address at 15 Craignair Park, Annan, DG12 6ND and the Execution of Service was received by the Tribunal administration.
5. On 10 February 2025 the Respondent emailed the Tribunal to advise he was seeking advice from the Citizens Advice Bureau.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 26 February 2025 by way of teleconference. Mr Stevenson from McJarrow and Stevenson, Solicitors appeared for the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow her plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 15 August 2023, the letters to the Respondent dated 15 November 2023 and 30 January 2024, the Certificate of Confirmation and Doquet in favour of the Executors of the late Mrs Anne Marion Holt dated 20 July 2011 and registered in the Books of Council and Session on 12 January 2012 and the rent statement showing arrears of £3574 to 20 May 2024. The Tribunal considered these documents.
8. The Tribunal asked Mr Stevenson to clarify the position with regards to the Applicant’s ownership of the Property. He advised that Mrs Holt had passed away. She was the owner of a number of items of property and land including the Property which she left to a number of beneficiaries. Mr Murray the Applicant is now the owner of the Property. He explained they were in the process of registering Murraythwaite Estate, including the Property with the Registers of Scotland in Alexander Murray’s name.

9. Mr Stevenson confirmed the Respondent had left the Property and had handed back the keys on 9 August 2024. He had a rent statement that showed arrears of £4674. This included rent due on 20 July 2024 for the following month and submitted that the statement had not been apportioned to the 9 August 2024. He accepted he had not sought amendment to increase the sum of arrears. The Tribunal noted that the last payment to account from the rent statement lodged was of £138 on 19 April 2024 and that the arrears to 17 May 2024 stood at £3574. Mr Stevenson referred the Tribunal to the letters sent to the Respondent regarding the rent arrears.

Reasons for Decision

10. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent statement. Further the Tribunal considered the submissions made by Mr Stevenson.
11. The Tribunal accepted the submissions by Mr Stevenson regarding the link in title of the Property in the Applicant's name. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicant had produced evidence of persistent non-payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Stevenson's submissions that an order for payment in favour of the Applicant be granted.

Decision

12. The Tribunal granted an order for payment of £3574 in favour of the Applicant.

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.

Shirley Evans

26 February 2025

Legal Member

Date