

# 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**

**Chamber Ref: FTS/HPC/CV/24/2703**

**Re: Property at 59A High Beveridgewell, Dunfermline, KY12 9ER (“the Property”)**

**Parties:**

**Mrs Patricia Kilpatrick, 33 Blake Street, Dunfermline, KY11 4PW (“the Applicant”) and**

**Morgans Solicitors, Estate Agents and Letting Agents, 33 East Port, Dunfermline, KY12 72JE (“the Applicant’s Representative”) and**

**Mr Gordon Banks, formerly residing at 4 Hill Street, Cowdenbeath, KY4 9AY, and whose present whereabouts are 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 Discussions**

2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2.00pm on 7<sup>th</sup> October 2024. The Applicant Mrs Kilpatrick did not attend and no-one from her Representative’s office attended. The Respondent Mr Banks did not attend. Reference is made to the Notes on that CMD.

3. The Applicant's Representative's Mrs L Kettles had sent an email to the Tribunal's office on 11<sup>th</sup> November 2024 attaching a tracing report in respect of Mr Banks, dated 3<sup>rd</sup> June 2024. The report had traced Mr Banks to the above stated address of 4 Hill Street, Cowdenbeath. Sheriff Officers were unable to serve the Application papers on Mr Banks at that address on 3<sup>rd</sup> September 2024, in advance of the CMD on 7<sup>th</sup> October 2024, as the property was unoccupied and undergoing renovation. In the circumstances the Tribunal's office had advertised the Application, and details of the CMD, and sent an email to Mr Banks' email address, stated in the Application, on 20<sup>th</sup> September 2024.
4. A further CMD proceeded remotely by telephone conference call at 10.00am on 14<sup>th</sup> April 2025. In advance of that CMD the Tribunal's casework team had sent an email to Mr Banks' stated email address, regarding the Application and CMD, on 11<sup>th</sup> March 2025. They advertised the Application on the Tribunal's website on the same date. The Applicant's Representative's Mrs L Kettles attended at the CMD. The Respondent, Mr Banks, did not attend and was not represented.
5. Mrs Kettles referred to the Application and asked the Tribunal to grant the payment order sought, in the sum of £2525.62, in respect of a balance of rent arrears owing following Mr Banks' departure from the Property on 11<sup>th</sup> April 2024. She said that neither her office or Mrs Kilpatrick are aware of Mr Banks' current address. She stated that Mrs Kilpatrick hopes to recover monies from Mr Banks, in terms of any payment order granted, by way of an earnings arrestment in the event that Mr Banks remains in employment as stated in the tracing report.

#### **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 and other costs against a tenant (such as the Respondent) in respect of a Private Residential Tenancy ("PRT").

8. The Tribunal considered all of the Application papers, and the submission of Mrs Kettles. Having done so, the Tribunal found in fact, on a balance of probabilities, and in law that Mr Banks owes a balance of rent arrears, arising from the parties' PRT, in the sum of £2525.62 and is obligated, in terms of the parties' PRT, to pay the arrears to Mrs Kilpatrick. Mr Banks has not lodged representations with the Tribunal or attended the CMD's to provide any evidence, and/or make any submission, to oppose and contradict the order sought by Mrs Kilpatrick, 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 Banks, to the Applicant, Mrs Kilpatrick, in the sum of £2525.62.
9. If Mr Banks is unclear regarding any of the terms of this Decision and accompanying Order for Payment he should consider seeking independent housing law and money matters advice from his local authority's welfare rights service or his local Citizens Advice Bureau.

### **Decision**

10. Therefore, the Tribunal made an order for payment by the Respondent, Mr Gordon Banks, to the Applicant, Mrs Patricia Kilpatrick, of the sum of TWO THOUSAND FIVE HUNDRED AND TWENTY FIVE POUNDS AND SIXTY TWO PENCE (£2525.62) 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

**G McWilliams**

14<sup>th</sup> April 2025

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Tribunal Legal Member

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Date