

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) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/2757

Re: Property at Flat 1, 1 Adelphi Lane, Aberdeen, AB11 5BL (“the Property”)

Parties:

William Taylor, 14 Carsons Lane, Lisburn, County Antrim, BT27 5JH (“the Applicant”)

Mr Ideumudia Akpekpe, UNKNOWN (“the First Respondent”)

Mr Anthony Akpekpe, Apartment 1, 372 Falls Road, Belfast, County Antrim, Northern Ireland, BT12 6DG (“the Second Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £3020 with interest thereon at the rate of 8% per annum.

Background

1. This is a Rule 111 application received on 17th June 2024. The Applicant was seeking an order for payment in the sum of £3150 with interest thereon at the rate of 8% per annum. The Applicant lodged a copy of a private residential tenancy agreement between the Applicant and the First Respondent in respect of the Property, which tenancy commenced on 15th September 2020 at a monthly rent of £525. The Second Respondent acted as guarantor in respect of the tenancy. The Applicant lodged a rent statement and application for Service by Advertisement in respect of both Respondents. Advertisement appeared on the Service by Advertisement page of the website of the First-tier Tribunal for Scotland Housing and Property Chamber from 9th September until 14 October 2024.

2. A Case Management Discussion (“CMD”) took place by telephone conference on 14th October 2024. The Applicant was represented by Mr Deane, Trainee Solicitor. The Respondents were not in attendance. The CMD was continued for the Applicant to provide an amended application form including the address of the Second Respondent as set out in the tenancy agreement.
3. By email dated 21st October 2024, the Applicant representative lodged an amended application form.
4. Advertisement appeared on the Service by Advertisement page of the website of the First-tier Tribunal for Scotland Housing and Property Chamber from 10th March until 10th April 2025.
5. On 10th March 2025, instructions were provided to Sheriff Officers to serve the application and notification of a CMD scheduled for 10th April 2025 on the Second Respondent.
6. On 9th April 2025, it came to the attention of the Housing and Property Chamber that service had not been made upon the Second Respondent due to a misunderstanding on the part of the Sheriff Officers.
7. A CMD took place by telephone conference on 10th April 2025. The Applicant was represented by Mr Deane. The Respondents were not in attendance. The CMD was continued to allow Sheriff Officers to attempt service upon the Second Respondent.
8. Service of the application and notification of CMD upon the Second Respondent was carried out by Sheriff Officers on 14th April 2025.
9. Advertisement appeared on the Service by Advertisement page of the website of the First-tier Tribunal for Scotland Housing and Property Chamber from 11th to 28th April 2025 in respect of the First Respondent.

The Case Management Discussion

10. The case called for a Case Management Discussion (“CMD”) by teleconference on 28th April 2025. The Applicant was represented by Mr Deane. The Respondents were not in attendance.
11. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondents.
12. Mr Deane moved the Tribunal to grant an order for payment in the amended sum of £3020 with interest thereon at the rate of 8% per annum as provided for at clause 8 of the tenancy agreement. The Tribunal agreed to the request to amend the application in respect of the sum sought.

Findings in Fact and Law

13.

- (i) The Applicant and First Respondent entered into a private residential tenancy agreement in respect of the Property which commenced on 15th September 2020 at a monthly rent of £525.
- (ii) The tenancy ended on or around 11th January 2024.
- (iii) Rent lawfully due has not been paid by the First Respondent to the Applicant.
- (iv) The Second Respondent guaranteed all payment of rent and other obligations and payments due by the First Respondent to the Applicant under the tenancy agreement.
- (v) The Second Respondent is jointly and severally liable for the First Respondent's debt.
- (vi) The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

14. Rent lawfully due is outstanding. The Applicant is entitled to recover rent lawfully due. The Second Respondent is jointly and severally liable for the First Respondent's debt.

Decision

15. An order for payment is granted in favour of the Applicant in the sum of £3020 with interest thereon at the rate of 8% per annum from the date of this decision until payment.

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.

Helen Forbes

Legal Member

28th April 2025
Date