



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/24/4557

Re: Property at 91 Lomond Place, Irvine, KA12 9PF (“the Property”)

Parties:

Mrs Una Fitzgerald, Mr Brendan Murray, 115 Haypark Avenue, Belfast, BT7 3FG (“the Applicant”)

Mr Sean Stewart, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Ruth O'Hare (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 in the sum of One thousand eight hundred and twenty eight pounds and seventy seven pence (£1828.77) Sterling

Background

- 1 This is an application for a payment order under Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant sought a payment order for unpaid rent arising from a private residential tenancy.
- 2 The application was referred to a case management discussion (“CMD”) to take place by teleconference on 11 June 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. The Tribunal attempted to serve said notice upon the Respondent by sheriff officers. On 3 April 2025, the Tribunal received a report from sheriff officers advising that the Respondent was not residing at the address provided. Attempts to contact him by telephone had been unsuccessful and a database search failed to produce an alternative address. The Tribunal therefore arranged for notice to be served by

advertisement on the Tribunal's website under Rule 6A of the Rules between 22 April 2025 and 10 June 2025. The Tribunal sent an email to the Respondent on 22 April 2025 with a link to the relevant page of the website.

- 3 Both parties were invited to make written representations in advance of the CMD. The Tribunal received no written representations from either party.

The CMD

- 4 The CMD took place on 11 June 2025 at 2pm by teleconference. Mr Craig Scott represented the Applicants who did not attend. The Respondent did not join the call. The Tribunal delayed the start time of the CMD for a short period before determining to proceed in his absence, having been satisfied that he had been given proper notice of the CMD under Rule 6A of the Rules.
- 5 The Tribunal had the following documents before it:-
 - (i) Form F application form;
 - (ii) Private residential tenancy agreement between the parties;
 - (iii) Rent statement;
 - (iv) Written mandate by the Applicants authorising Rentolease to represent them for the purpose of the Tribunal application;
 - (v) Decision and order of the Tribunal dated 25 May 2023 in case reference FTS/HPC/CV/23/0413
- 6 The Tribunal heard submissions from Mr Scott on the application. Mr Scott confirmed that the Applicants sought an order for payment for the remaining balance of rent arrears, following the order granted by the Tribunal back in March 2023. The Respondent had not been in touch and there had been no payments received.

Findings in fact

- 7 The Applicants are the registered owners of the property.
- 8 The Applicants let the property to the Respondent in terms of a private residential tenancy agreement, which commenced on 17 December 2021.
- 9 In terms of clause 8 of the said tenancy agreement the Respondent undertook to pay rent of £500 per month.
- 10 The Respondent failed to pay rent as agreed. The tenancy between the parties terminated on 20 June 2023. As at the date of termination, there were rent arrears in the sum of £5331.03.
- 11 On 25 May 2023, the Tribunal made an order for payment against the Respondent in favour of the Applicant for rent arrears arising from the tenancy between the parties in the sum of £3502.26.

- 12 The Respondent is due to pay the sum of £1828.77 to the Applicants under the terms of the said tenancy agreement. Despite repeated requests the Respondent has refused or delayed to make payment, therefore the payment order is necessary.

Reasons for decision

- 13 The Tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having regard to the application paperwork and the submissions heard at the CMD. In terms of Rule 17(4) and Rule 18(1) of the Rules the Tribunal determined that it could make a decision at the CMD as there were no issues to be resolved that would require a hearing and the Tribunal was satisfied that to make a decision would not be contrary to the interests of the parties. The Tribunal had provided the Respondent with the opportunity to make written representations and attend the CMD but he had chosen not to do so, which mirrored his approach to the previous application involving the parties.
- 14 Based on the application paperwork the Tribunal was satisfied that the tenancy between the parties was a private residential tenancy, and that the Respondent had agreed under the terms of the tenancy agreement to pay rent of £500 per month to the Applicant. The Tribunal further accepted that he had breached that contractual obligation and had accrued arrears of £1828.77, being the remaining balance due following deduction of the previous sum awarded by the Tribunal. There was no contradictory evidence before the Tribunal as the Respondent had chosen not to participate in the proceedings, nor advance any written defence to the application.
- 15 The Tribunal therefore made a payment order in the sum of £1828.77.

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.

R.O'Hare

11 June 2025

Legal Member/Chair

Date