



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/3326

Re: Property at 63 Bournemouth Road, Gourock, PA19 1HN (“the Property”)

Parties:

Mrs Rosalind Keogh, 4 Annetyard Drive, Skelmorlie, PA17 5BN (“the Applicant”)

Anne Cairney Stewart, Ms Jenna Kane, 3/3 52 Finnart Street, Greenock, PA16 8HE; 63 Bournemouth Road, Gourock, PA19 1HN (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Second Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of SEVEN THOUSAND THREE HUNDRED AND EIGHTY-FIVE POUNDS (£7385)

Background

1. By application dated 19 July 2024 the applicant seeks an order for payment in respect of outstanding arrears of rent in terms of section 71(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The case was conjoined with case reference FTS/HPC/EV/24/3340 in terms of which the applicant seeks an eviction order against the second respondent in terms of ground 12 (rent arrears) in schedule 3 of the 2016 Act.
2. The following documents were lodged with the application:
 - Copy Private Residential Tenancy agreement
 - Rent ledger spanning the tenancy period
 - Deed of Guarantee dated 11 March 2019

- Letter to the first respondent dated 15 July 2024
3. A case management discussion (“cmd”) was scheduled for 20 February 2025 via teleconference.
 4. Prior to the cmd the applicant submitted an application to increase the sum sought to £7385 in terms of rule 14A. The first respondent submitted an application for a time to pay direction. The applicant submitted a response rejecting the offer.
 5. At the cmd the applicant was represented by Mr Caldwell, solicitor, Patten & Prentice LLP. The first respondent, Ms Stewart attended with her husband, Frank Stewart. The second respondent, Ms Kane attempted to join the teleconference however was unable to do so. The cmd was adjourned as due to technical issues it was not able to proceed.

Case management discussion (“cmd”) – 23 June 2025

6. The applicant was present and represented by Mr Caldwell. The first respondent, Ms Stewart was not initially on the call and joined late. She attended with her husband, Frank Stewart. The second respondent was not present. The Tribunal was satisfied that that the second respondent had been properly notified of the cmd and proceeded in her absence in terms of rule 29.
7. Ms Stewart did not dispute that she was liable for rent arrears as guarantor under the Deed of Guarantee that had been submitted. She stated that as far as she was aware the first respondent who is her granddaughter was no longer living in the property and had moved out around April 2025. Ms Stewart stated that she had thought that she would not be liable for rent after her granddaughter had moved out and was surprised that the tenancy had not already been terminated.
8. After some discussion regarding the time to pay direction application and Ms Stewart’s personal financial circumstances she stated that she was no longer seeking to make an offer to repay as set out in the time to pay direction and would be prepared to make payment of a lump sum of £7385.
9. Mr Caldwell referred to an updated rent statement that had been produced and sought an order for payment in the sum of £9110 which was the amount of arrears due as at 11 June 2025. Mr Caldwell sought interest on the amount at the rate of 4%.

Findings in fact

10. The applicant and second respondent entered into a private residential tenancy agreement with a commencement date of 11 March 2019.
11. In term of a Deed of Guarantee signed by the first respondent on 11 March 2019 she is guarantor in respect of any outstanding rent or arrears in the event that the second respondent defaulted in her obligations under the tenancy agreement.
12. Monthly rent due in terms of the agreement is currently £630.
13. Arrears as at 23 January 2025 amounted to £7385.
14. The respondent has not made any payments to reduce the arrears figure since 23 January 2025 and the arrears have continued to increase.

Reasons for the decision

15. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

16. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

17. The Tribunal had regard to the application, the documents lodged by the applicant and oral submissions at the cmd.
18. The Tribunal took into account that the first respondent accepted liability for the sum of £7385 and indicated that she would make payment of a lump sum. She no longer sought a time to pay direction in terms of her application. The second respondent had not lodged any defence to the application or disputed the sum sought in any way.
19. The Tribunal was satisfied that the request to amend the sum sued for to £7385 had been made in compliance with rule 14A. The Tribunal was satisfied that as evidence by the rent account submitted by the applicant arrears in the amount of £7385 were lawfully due as at the date of the cmd. The Tribunal found that the request to increase the sum sought to £9110 did not comply with the requirements of rule 14A in terms of the notice provided.
20. The tenancy agreement made no provision for award of interest on outstanding arrears. The Tribunal declined the applicant's request for interest on the order for 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.

M-C Kelly

23 June 2025

Legal Member/Chair

Date