



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/24/5771

Re: Property at Flat 3, 5 Bells Mills Dean Village, Edinburgh, EH4 3DG (“the Property”)

Parties:

Mr Iain Percival, 21A Drummond Place, Edinburgh, EH3 6PN (“the Applicant”)

Mr Michael Layton, Ms Suzanne Hollywood, unknown, unknown (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Four thousand and eighty eight pounds and seventy one pence (£4088.71) Sterling.

In terms of Rule 41A of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) the Tribunal further determined to award interest on the sum at the rate of 8% per annum from the date of this decision until payment.

Background

- 1 This is an application for payment 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 an order for payment against the Respondents in respect of unpaid rent.

- 2 The application was referred to a case management discussion ("CMD") to take place by teleconference on 23 June 2025 at 2pm. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules, Said notice was served upon the Respondents by advertisement on the Tribunal's website as their whereabouts were unknown between 11 April 2025 and 23 June 2025.
- 3 Both parties were invited to make written representations. No written representations were received in advance of the CMD.

The CMD

- 4 The CMD took place by teleconference on 23 June 2025 at 2pm by teleconference. Mr Gregory Smart of Gilson Gray Solicitors represented the Applicant. The Respondents did not join the call. The Tribunal delayed the start time of the CMD for a short period before determining to proceed in their absence.
- 5 The Tribunal had the following documents before it:-
 - (i) Form F application form;
 - (ii) Title sheet MID159857 confirming the Applicant as the registered owner of the property;
 - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
 - (iv) Private residential tenancy agreement between the parties; and
 - (v) Rent statement.
- 6 The Tribunal heard written submissions from Mr Smart on the application. Mr Smart confirmed that the Applicant sought a payment order for arrears that had accrued between 1 October 2024 and 3 December 2024. He referred to the rent statement lodged in support of this. The Applicant also sought interest at the rate of 8% per annum in accordance with the contractual terms of the tenancy agreement. Mr Smart advised that invoices in support of the Applicant's claim for reasonable costs had been submitted to the Tribunal earlier that day. The Tribunal advised that it would not be able to make a decision on said costs, as the Respondents had not been given fair notice of these. Mr Smart confirmed that the Applicant would therefore seeking an order solely for the arrears and the interest.

Findings in fact

- 7 The Applicant is the owner and landlord, and the Respondents were the tenants, of the property in terms of a private residential tenancy agreement which commenced on or around 1 July 2022.
- 8 The rent due for the property was £1950 per month.
- 9 In terms of clause 8 of the tenancy agreement the Respondents undertook to pay interest on any outstanding rent at the rate of 8% per annum until payment.

- 10 The tenancy between the parties terminated on 3 December 2024. As at the date of termination arrears in the sum of £4088.71 were outstanding.
- 11 Despite repeated requests the Respondents have refused or delayed in making payment of the sum due.

Reasons for decision

- 12 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.
- 13 Based on the application paperwork the Tribunal was satisfied that the Respondents had a contractual obligation to pay rent as reflected in the Tribunal's findings in fact and that they had failed to do so, resulting in arrears accruing in the sum of £4088.71. The Respondents had not sought to dispute this and had not submitted any contradictory evidence to the documents and submissions provided by the Applicant.
- 14 The Tribunal therefore made an order for payment in the sum of £4088.71.
- 15 The Tribunal further determined to exercise its discretion under Rule 41A of the Rules to award interest at the rate of 8% per annum from the date of this decision until payment. The Tribunal considered this to be reasonable in the particular circumstances of this case having regard to terms of the tenancy agreement, and the Respondents agreement to interest being charged at that rate.

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

23 June 2025

Legal Member/Chair

Date
