



Written Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 111 of the Rules

Chamber Ref: FTS/HPC/CV/24/5203

Parties:

Mr Neil Robb residing at 22, Ballymacash Road, Lisburn, Co.Antrim, Northern Ireland, BT28 3DR (“ the Applicant”) per his representatives, Corbett and Shields, 1, Ratho Street , Greenock PA15 2AU(“the Applicant’s Representatives)

Mr Donald Forbes residing at the Property (Respondent)

Property: Flat 1/2, 32 Highholm Street, Port Glasgow, PA14 5HL

Tribunal Members

Karen Moore, Legal Member and Ann Moore, Ordinary Member

Decision

The Tribunal dismissed the Application and made no Order.

Background

1. By applications received on 12 November 2024, 22 January 2025 and 24 February 2025 (“the Applications”), the Applicant’s Representatives applied to the Tribunal for an Order for payment of rent purported to be due and owing arising from a tenancy agreement between the Parties.
2. The Applications were accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 7 August 2025 at 10.00 by

telephone conference. The CMD was intimated to both Parties, and, in particular, was intimated to the Respondent, by Sheriff Officer service on 24 June 2025.

CMD

3. The CMD took place on 7 August 2025 at 10.00 by telephone. The Applicant was represented by Ms. A. Weston of the Applicant's Representatives. The Respondent was not present and was not represented. He did not submit written representations.
4. Ms. Weston advised the Tribunal that an Order in the sum of £2,332.50 was sought as payments had been made by or on behalf of the Respondent.
5. The Tribunal asked Ms. Weston to explain the Applications as lodged by the Applicant's Representatives in light of the sum now sought.
6. The Tribunal noted that three applications had been lodged as follows:-
 - i) An application dated 12th November 2024 was lodged in which the sum sought was set out as "rent arrears owed". In this application, the Applicant's address was given as that of the Applicant's Representatives, 1 Ratho, Street, Greenock. A rent statement showing rent of £1,9250.00 due and owing was lodged;
 - ii) Following enquiries made by the tribunal administration, a second application form was lodged on 22 January 2025. This application gave the full name and address of the Applicant as required by Rule 111 but did not set out an amount in respect of the Order sought. A rent statement showing rent of £2,400.00 due as at 9th December 2024 accompanied this application;
 - iii) Following further enquiries made by the tribunal administration, a third application dated 24th February 2025 was received. This application set out an amount of £2,482.56 as due by the Respondent but,

although this application stated that a rent statement accompanied it, none was lodged. This application gave the Applicant's home address as that of the Applicant's Representatives, 1 Ratho, Street, Greenock.

7. The Tribunal reminded Ms. Weston of the wording of Rule 111 which states
“Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal’s jurisdiction) of the 2016 Act, the application must (a)state (i)the name and address of the person; (ii)the name and address of any other party; and (iii)the reason for making the application; (b)be accompanied by (i)evidence to support the application; and (ii)a copy of any relevant document; and (c)be signed and dated by the person.”
8. The Tribunal asked Ms. Weston to explain on what basis the Tribunal could grant the Order now sought.
9. Ms. Weston stated that she assumed that the first and second applications and been withdrawn or dispensed with and that the Tribunal was dealing with the third application alone. The Tribunal pointed out that, in that regard, the application form was flawed as it did not provide the name and address of the person making the application and there was no evidence in respect of the sum sought in that application. Ms. Weston was unable to say if the sum sought in that application or the amended sum sought had been notified to the Respondent. She stated that there had been conversations with the Respondent and that, latterly, state benefit payment had been received. She accepted that the detail had not been lodged with the Tribunal.
10. Although Ms. Weston accepted that the Applicant's Representatives are professional letting agents, she appeared to be unaware of the Tribunal's statutory processes and the status of the Tribunal as a judicial body.
11. Ms. Weston stated that she considered it the role of the Tribunal and the legal member, in particular, to make good the flawed application from all of the information lodged, regardless of having stated that the two earlier applications had, in effect, been withdrawn.

12. Ms. Weston repeatedly spoke over both Tribunal Members and was warned by both Members that her conduct was not acceptable in judicial proceedings.
13. Ms. Weston stated that she was not legally qualified and that it was unfair to the Applicant if the Tribunal would not grant an Order. Ms. Weston was advised that the onus was on her as the Applicant's Representative and as a letting agent to seek professional or legal advice if she was not capable of providing proper representation.
14. The Tribunal advised Ms. Weston that it would adjourn the CMD for ten minutes to consider the steps it would take and advised Ms. Weston to come out of the telephone conference and dial back in at 10:30. Ms. Weston left the call.
15. The Tribunal adjourned and discussed all that it heard from Ms. Weston. The Tribunal took the view that it had insufficient information to make an Order and also took the view that it was not for the Tribunal, as an impartial judicial body, to make good a flawed application. Accordingly, further enquiries should be made of Ms. Weston.
16. The CMD reconvened and waited until 10:40 for Miss Weston to re-join the CMD. However Ms. Weston did not do so.
17. The Tribunal proceeded to determine the application in her absence in terms of Rule 17(4).

Findings in Fact

18. The Tribunal made the following findings in fact: -
 - i) The application dated 24 February 2025 does not conform to Rule 111 as it does not state the name and address of the Applicant, as the person making the application;
 - ii) The application dated 24 February 2025 does not conform to Rule 111 as it is not accompanied by evidence to support the application;
 - iii) There is no evidence before the Tribunal to show that the sum of £2,332.56 is due by the Respondent to the Applicant;
 - iv) There is no evidence to show that the Respondent has been notified of the sum claimed as due.

Decision and Reasons for Decision

19. Having found that the application before it does not conform to Rule 111 and having found no evidence to support the sum sought nor any evidence to show that the Respondent has had prior notification of the claim, the Tribunal dismissed the application and made no Order.

20. This decision is unanimous.

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.

Karen Moore

Legal Member/Chair

7 August 2025
Date