



Decision with reasons 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/24/5095

Re: Property at 116 Lauriston Place, Edinburgh, EH3 9HX (“the Property”)

Parties:

Miss Charlotte Elias residing at 21, Learmonth Terrace, Edinburgh EH4 1PG (“the Applicant”) per her representatives, Ballantynes, 30 Stafford Street, Edinburgh, EH3 7BD (“the Applicant’s Representatives”)

Mx Percy Morgan residing at 9 Seafield Road East, Edinburgh, EH15 1EB (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondent)

The Tribunal determined that an Order for Payment in the sum of NINE THOUSAND EIGHT HUNDRED AND FORTY FOUR POUNDS and ELEVEN PENCE (£9,844.11) Sterling be granted.

Background

1. By application received between 6 November 2024 and 13 December 2024 (“the Application”) the Applicant’s representative applied to the Tribunal for an Order for Payment of rent due and owing by the Respondent and Aaron Phillip Gallagher amounting to £9,844.11.

2. The Application was raised against the Respondent and Aaron Phillip Gallagher and comprised the following: a copy private residential tenancy agreement between the Applicant, on one part, and the Respondent and Aaron Phillip Gallagher, on the other part, at a monthly rent of £1,295.00 and a rent statement showing arrears of rent of £9,844.11 due and owing to 18 June 2024, the date on which the tenancy ended. The Application explained that a previous Order had been granted on 7 December 2023 for arrears due and owing at that date.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the "CMD") was fixed for 30 June 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 2 April 2025. The Application was not served on Aaron Phillip Gallagher.

CMD

4. The CMD took place on 30 June 2025 at 10.00 by telephone. The Applicant was not present and was represented by Ms. K. Preston of the Applicant's Representatives. The Tribunal explained that the Application had not been served on Aaron Phillip Gallagher and the Sheriff Officers reported that it appeared Mr. Gallagher no longer resided in the United Kingdom. Ms. Preston advised that she was aware that Mr. Gallagher had returned to the United States of America. In the circumstances, she advised that she would not proceed against Mr. Gallagher and would proceed against the Respondent alone.
5. The Respondent was not present and was not represented at the CMD. He did not submit written representations. The Tribunal was satisfied that he had had service of the Application that he was aware of the proceedings and was aware that he was required to attend the CMD. The Tribunal, therefore, proceeded in his absence on the basis that there was no formal opposition to the Application.
6. Ms. Preston confirmed that an Order for £9,844.11 was sought in respect of unpaid rent due by the Respondent and that on the basis of his joint and several liability.

Findings in Fact

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There was a private residential tenancy of the Property between the Applicant and the Respondent and Aaron Phillip Gallagher which ended on or around 18 June 2024;
 - ii) The monthly rent at that time was £1,295.00;

- iii) During the course of the tenancy the Respondent and Aaron Philip Gallagher, fell into arrears of rent;
- iv) An Order for payment was granted in the Applicant's favour on or around 7 December 2023
- v) At the close of the tenancy, the balance of rent due and owing to the Applicant amounted to £9,844.11;
- vi) At the date of the CMD, this amount remains unpaid and due and owing to the Applicant;
- vii) The terms of the tenancy agreement confer joint and several liability on the Respondent;
- viii) The Applicant is entitled to an Order against the Respondent, alone.

Decision and Reasons for Decision

- 8. The Tribunal had regard to all the information before it and to its Findings in Fact.
- 9. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*". Having found in fact that the Respondent is due and owing to the Applicant for the sum of £9,844.11, the Tribunal proceeded to make an order for payment in this sum.
- 10. The Application against Aaron Phillip Gallagher being withdrawn, the Tribunal made no order against him.

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.

K Moore

Legal Member/Chair

**30 June 2025
Date**