



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/25/0455

Re: Property at FLAT 5 GALLOWAY FLATS, 24 SOUTH MAIN STREET, WIGTOWN, DG8 9EH (“the Property”)

Parties:

Mr Steven McGinn, Mrs Jennifer McGinn, 13 Whitehaven Close, Broughton, Milton Keynes, MK10 7AF (“the Applicant”)

MR DANNY BENNEWITH, 12 MASONFIELD DRIVE, NEWTON STEWART, DG8 6QA (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent in the sum of £1,248 should be made in favour of the Applicant.

Background

1. By application received on 3 February 2025, the Applicant applied to the Tribunal for an order for payment of rent arrears amounting to £1,248 against the Respondent, their former tenant. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, a rent statement and some copy correspondence between the parties.
2. Following initial procedure, on 2 April 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.

3. A Case Management Discussion (“CMD”) was fixed for 20 August 2025. The application and details of the CMD fixed were served personally on the Respondent by Sheriff Officer on 9 July 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations. No representations were lodged prior to the CMD.

Case Management Discussion

4. The CMD took place by telephone conference call on 20 August 2025 at 2pm. It was attended only by the Applicants, Mrs Jennifer McGinn and Mr Steven McGinn. The Respondent did not attend. The Tribunal delayed the commencement of the CMD for 5 minutes to allow an opportunity for the Respondent to join late but he did not do so.
5. Following introductions and introductory remarks by the Legal Member, there was discussion regarding the application. Mrs McGinn confirmed that there has been no further contact with the Respondent and that no payments had been received from him. The balance outstanding is accordingly still the sum of £1,248.
6. Mrs McGinn explained the background to the application. The Respondent fell into arrears with his rent and despite their best efforts, the situation was not resolved by the Respondent. Once he had missed three consecutive months’ rent, they took advice and served a Notice to Leave on the Respondent, requiring him to move out of the property at the end of the notice period, which was 5 January 2025. He did not move out then, but did move out a few days later, on 12 January 2025. He did not notify them that he was moving out and did not return the keys to them. They found out via a neighbour who saw him removing some of his belongings from the Property. Once he had vacated, they took entry and found that he had left the Property in a bit of a mess and needing repair. They did not hold a tenancy deposit for the Property but rather than try and pursue the Respondent for repair costs, etc, they decided just to ‘cut their losses’ and pursue him for the rent arrears. They were disappointed as his actions as they felt they had been fair and flexible landlords and the rent was set very low, at £370 per calendar month, and they had not insisted on a deposit. They got the Property back into tenantable condition and fortunately, were able to let it out again quite quickly.
7. The Legal Member, having considered the matter, confirmed that the application was in order and a payment order in the sum sought would be granted today. There was some brief discussion regarding further procedure, Mr and Mrs McGinn were thanked for their attendance and participation in the CMD and the CMD was concluded.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.

2. The Respondent was the joint tenant of the Property by virtue of a Private Residential Tenancy which commenced on 20 April 2023.
3. The joint tenant had vacated the Property in or around June 2024, prior to the rent arrears arising.
4. The tenancy ended when the Respondent vacated the Property on 12 January 2025, as a consequence of the Applicant serving him with a Notice to Leave.
5. The rent due in respect of the tenancy was £370 per calendar month.
6. The rent payments had fallen into arrears, with rent not being paid for the months of October, November and December 2024 and the relevant proportion of January 2025.
7. The rent arrears amounted to £1,248 at the end of the tenancy.
8. The last payment towards rent was made by the Respondent on 2 September 2024 in the sum of £370.
9. No further payments have been made by the Respondent since.
10. The arrears currently owing still amount to £1,248.
11. The Applicant sought to engage with the Respondent concerning the rent arrears.
12. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
13. The Respondent did not submit any representations nor attend the CMD.
14. The sum of £1,248 is due and resting owing to the Applicant by the Respondent in respect of unpaid rent arising from this tenancy.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, particularly the tenancy agreement and rent statement and the further oral information provided at the CMD by the Applicants.
2. The Tribunal found that the application was in order and that the original sum of £1,248 sought in terms of this application was owing by the Respondent in respect of rent arrears. The Tribunal was satisfied that the Applicant had calculated the amount outstanding correctly.

3. The Tribunal did not have any material before it to contradict the Applicant's position or to indicate that the Respondent was opposing the application. The Tribunal was satisfied that the Respondent had been served with the Tribunal documentation personally by Sheriff Officer and that this had been served timeously. The Respondent is thus aware of the application and has chosen not to enter into the Tribunal process. The Tribunal accordingly determined that an order for payment in the above sum could properly be granted at the CMD as there were no facts in dispute nor any other requirement for an Evidential Hearing.

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.

Nicola Weir

Legal Member/Chair

20 August 2025
Date