



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/24/4436

Re: Property at 98 Den Walk, Buckhaven, KY8 1DH (“the Property”)

Parties:

Mr Robert Bruce, 22 Woodlands Road, Lundin Links, Leven, KY8 6HG (“the Applicant”)

Mr Fabio Garraffo, Ms Rasha Eltalli, 23 Barrie Street, Methil, KY8 3BU (“the Respondents”)

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondents of the sum of £6892.54 should be granted in favour of the Applicant.

Background

1. An application was received from the Applicant’s solicitor on 23 September 2024 seeking a payment order in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for payment of £6715 in respect of rent arrears which were alleged to be due by the first Respondent, Mr Garraffo, to the Applicant as at the date of the application.
2. The Applicant had also made an application (reference no: FTS/HPC/EV/24/1900) under Rule 109 of the 2017 rules seeking recovery of the property under Ground 12A (substantial rent arrears). An eviction order was

granted in favour of the Applicant against the first Respondent on 22 January 2025.

3. Following various requests from the tribunal administration, further information was received from the Applicant's solicitor on 30 September 2024. Amended application forms were received from the Applicant's solicitor on 8 November and 11 December 2024 and 21 January 2025. The application dated 21 January 2025 sought a payment order in the sum of £5730.
4. The application was accepted on 19 February 2025.
5. A case management discussion (CMD) was held on 7 July 2025. The Applicant was present and was represented by his solicitor, Miss Wilson. The first Respondent was not present or represented.
6. Miss Wilson acknowledged that the applications dated 8th November and 11th December 2024 included the guarantor, Ms Rasha Eltalli, as a second Respondent but the application dated 21st January 2025 did not include the guarantor as a second Respondent. She advised that this had been an oversight. She confirmed that the guarantor had not been sent a demand letter as required in terms of clause 3 of the guarantee section of the lease.
7. Miss Wilson advised that the Applicant had obtained vacant possession of the property on 6 June 2025 after sheriff officers had enforced the eviction order. The rent statement which had been produced showed the outstanding arrears to be £7430 as at 10 June 2025, but she acknowledged the first Respondent would only be liable for rent up until 6 June 2025. She would lodge an amended rent statement with the tribunal. She confirmed the deposit was still with the tenancy deposit scheme and had not yet been returned to the Applicant. She acknowledged that the deposit would have to be deducted from the sums due by the first Respondent.
8. She did not know the current address of the first Respondent. She said that if she was unable to ascertain the current address she would apply to the tribunal for service by advertisement. The tribunal continued the CMD to 24 October 2025 to allow her to make the amendments required to the application and to submit the necessary productions to the tribunal.
9. On 8 September 2025, further submissions were received from the Applicant's solicitor. These included a further amended application form including the guarantor, Ms Eltalli, as a Respondent, an updated rent statement, and a request to amend the sum sought to £6892.54, being the amount due as at 6 June 2024. Letters from the Applicant's solicitor to Ms Eltalli as guarantor dated

27 October 2023, 5 March 2024 and 29 July 2025 regarding the first Respondent's rent arrears were also attached. Also attached was a sheriff officer's letter confirming that they had been unable to verify a current address for the first Respondent.

10. The CMD scheduled for 24 October 2025 was cancelled because the papers could not be served on the first Respondent as his address was unknown. On 20 October 2025, a tracing report from sheriff officers was received from the Applicant's solicitor confirming his new address, which is the same address at that of the second Respondent.
11. Notice of the postponed CMD scheduled for 18 December 2025, together with the application papers and guidance notes, was served on both Respondents by sheriff officer on behalf of the tribunal on 19 November 2025. The Respondents was invited to submit written representations by 9 December 2025.
12. No written representations or time to pay application were received from either of the Respondents prior to the CMD.

The postponed case management discussion

13. The postponed CMD was held by teleconference call on 18 December 2025. The Applicant was present on the call and was represented by his solicitor, Ms Amanda Sneddon of Lynn Herbert and Co.
13. Neither Respondent was present or represented on the teleconference call. The tribunal delayed the start of the CMD by 10 minutes, in case the Respondents had been detained. They did not join the teleconference call, however, and no telephone calls, messages or emails had been received from them.
14. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondents.

Preliminary issue

15. The tribunal noted that the applications dated 8th November and 11th December 2024 had included the guarantor, Ms Eltalli, as a Respondent. The application, which comprised documents received between 23 September 2024 and 21 January 2025, was accepted for determination on 19 February 2025. The tribunal therefore considers that Ms Eltalli was named as a Respondent in

the original application. In any case, the Applicant's solicitor had also clearly asked that the second Respondent should be included in the application in the submissions of 8 September 2025. The papers for the CMD had been served by Ms Eltalli on behalf of the tribunal. The tribunal was therefore satisfied that before the application should proceed against both Respondents.

Submissions on behalf of the Applicant

16. Ms Sneddon asked the tribunal to make a payment order by the Respondents for the sum of £6892.54 in favour of the Applicant. The first Respondent still owed that sum in rent arrears, as shown in the rent statement submitted on 8 September 2025. He had made no rent payments since January 2025. There had been no further contact from the first Respondent since January 2025, and no contact from the second Respondent.

Findings in fact

17. The Tribunal made the following findings in fact:

- The Applicant is the joint owner (with Janet Bruce) and registered landlord of the property.
- A private residential tenancy agreement was entered into between the Applicant and the first Respondent, which commenced on 9 September 2021.
- The rent payable under the tenancy agreement was £475 per calendar month, payable in advance on the 9th day of each month.
- The second Respondent, who is the first Respondent's partner, was named at section 40 of the tenancy agreement as a guarantor for the first Respondent. She signed the guarantee section of the lease on 8 September 2021.
- The Applicant complied with the pre-action requirements, and have therefore notified the first Respondent that he owed the arrears.
- The Applicant was granted an eviction order by the tribunal against the first Respondent on the ground of substantial rent arrears on 22 January 2025.
- The first Respondent was evicted from the property on 6 June 2025.
- The Applicant's solicitor wrote to the second Respondent on 27 October 2023 and 5 March 2024. These letters notified her that the first Respondent owed rent arrears to the Applicant, and that the guarantor arrangement meant that she would be liable to compensate the Applicant for all outstanding rental arrears if the first Respondent failed to do so.
- The Applicant's solicitor wrote to the second Respondent on 29 July 2025 with a written demand for payment to be made by her as guarantor in full of the outstanding sum of rental arrears of £6,892.54 within 14 days. The letter

stated that if she failed to do so, she would be sent notification of legal proceedings against her for recovery of the arrears.

- As at the date of the CMD, the first Respondent owed the Applicant £6892.54 in rent arrears.

Reasons for decision

18. The tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.

19. The tribunal noted that the guarantee section of the agreement, which had been signed by the second Respondent as guarantor on 8 September 2025, stated as follows:

1. The Guarantor hereby agrees to compensate fully and indemnify the Landlord for any loss, damage, costs or other expenses arising either directly or indirectly from any breach of the Tenant's obligations in any tenancy agreement, extension, continuation or subsequent tenancy agreement agreed between the Landlord and the Tenant relating to the Premises.

2. This Guarantee Is irrevocable without the express written consent of the Landlord or any person acting as agent for the Landlord and shall continue beyond the death of the bankruptcy of the Guarantor and is not limited to any fixed term as may be described in any tenancy agreement as may be entered into between the Landlord and the Tenant. This Guarantee will continue until such time as the Tenant offers a surrender of the tenancy and that offer is formally accepted in writing by the Landlord or any person acting as agent for the Landlord.

3. in the event of any breach of the Tenant's obligations in a tenancy agreement relating to the premises, then upon written demand the Guarantor will pay to the landlord all losses, claims, liabilities, cost and expenses arising out of or in connection with the breach on a full indemnity basis.

4. By entering into this guarantee as a deed the Guarantor accepts joint and several liability with the Tenant. This means that each will be responsible for complying with the Tenant's obligations under this agreement both individually and collectively. The Landlord may elect to enforce these obligations and claim damages against the Tenant, the Guarantor or both of them under this clause.

20. The Tribunal was therefore satisfied that the Respondents are jointly and severally liable for the rent arrears incurred by the first Respondent under the tenancy agreement.

21. The Tribunal granted the Applicant's request to amend the sum sought to £6892.54. The amendment had been notified to both the tribunal and the Respondents at least 14 days before the CMD, as required in terms of rule 14A of the 2017 rules. No objections had been received from the Respondents.

22. The Tribunal noted that the first Respondent owed the Applicant £6892.54 in rent arrears as at the CMD. The tribunal was satisfied that both Respondents had been given fair notice of the sum claimed.

23. Neither Respondent had submitted any written representations or indicated that they opposed the application. Neither Respondent had made an application for a time to pay direction.

24. On the basis of all the evidence before it, the Tribunal was satisfied that the Respondents owed the Applicant £6892.54. It therefore grants an order for payment by the Respondents to the Applicant for that amount.

Decision

The Tribunal grants an order for payment by the Respondents to the Applicant for the sum of £6892.54.

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.

Sarah O'Neill

18 December 2025

Legal Member/Chair

Date