



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/25/0159

Re: Property at 39 Woodside Avenue, Rutherglen, G73 3JE (“the Property”)

Parties:

Miss Season Henderson as executrix of Elizabeth Yuile, 35 Mims Street, Reynolds, Georgia, 31076, United States (“the Applicant”)

Ms Samantha Law, Miss Melissa Stewart, formerly residing at 39 Woodside Avenue, Rutherglen, G73 3JE (“the Respondents”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Jane Heppenstall (Ordinary 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 £15255 should be granted in favour of the Applicant.

Background

1. An application was received from the Applicant’s solicitor on 15 January 2025 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 £7150 in respect of rent arrears which were alleged to be due by the Respondents to the Applicant as at the date of the application, together with interest from the date of the tribunal’s decision.
2. The Applicant had also made an application (reference no: FTS/HPC/EV/25/0158) under Rule 109 of the 2017 rules seeking recovery of the property under Ground 12 (rent arrears).

3. The application was accepted on 14 February 2025.

The case management discussions

4. A case management discussion (CMD) was held on 13 May 2025 to discuss both applications. Miss Alexandra Wooley of Bannatyne Kirkwood France Solicitors represented the Applicant. The first Respondent, Ms Samantha Law, was present on the teleconference call. The second Respondent, Miss Melissa Stewart was not present or represented. Ms Law told the Tribunal that Miss Stewart, who is her daughter and no longer lived in the property, did not intend to join the call.
5. Miss Wooley asked the Tribunal to adjourn the CMD to a later date, as she had been unable to contact the Applicant, who lives in the USA, and did not have her full instructions. There was in particular a question over whether the Applicant was in fact the owner of the property. The property was still registered in the joint names of James Yuile and Elizabeth Yuile, who were believed to be the Applicant's grandparents, as at 20 October 1964. The Tribunal therefore adjourned the CMD to 1 October 2025.
6. A written submission was received from Miss Wooley on 30 September 2025, the day before the adjourned CMD. This included a request to amend both applications to reflect that they were made by the Applicant in her capacity as executrix of her late grandmother, Elizabeth Yuile.
7. The adjourned CMD was held by teleconference call on 1 October 2025 to discuss both applications. Miss Wooley represented the Applicant. The first Respondent, Ms Samantha Law, was again present on the teleconference call. The second Respondent, Miss Melissa Stewart, was again not present or represented.
8. Miss Wooley apologised for her late submission. She had continued to have difficulty in contacting the Applicant, who had been out of contact for a period while she moved from one US state to another. It had taken some time to find the relevant paperwork, given how long had passed since it was issued.
9. The Applicant had thought that the property was registered in her own name, but it was now clear that her entitlement to the property was as executrix on her grandmother's estate. As demonstrated by the death certificate which had been submitted, her grandfather Mr James Yuille had died in 1974, at which point her grandmother Mrs Elizabeth Yuille inherited his share of the property. Mrs Yuille had then died in 2011.

10. Confirmation on Mrs Yuille's estate had been granted in favour of the Applicant, who was the sole beneficiary of her grandmother's estate, on 13 October 2011. The Applicant had not, however, taken steps to have the property transferred into her name.
11. Miss Wooley invited the Tribunal to exercise its discretion in order to allow the requested amendments to both applications. She noted that the Applicant remained the same, although in the amended applications she was named in a different capacity.
12. The Tribunal noted that Miss Wooley had made a request to amend the sum claimed in the present application to £9175, which had been copied to both Respondents 14 days before the first CMD. Miss Wooley confirmed that the Applicant did not seek at this stage to further increase the sum claimed. Ms Law said that she did not dispute that the £9175 rent arrears were owed, and did not oppose the amendment request. She indicated, however, that she wished to oppose the eviction application. She also said that she was unsure what Miss Wooley's submission of 30 September meant for her, and that she had been unsuccessful in obtaining legal advice about her situation.
13. The Tribunal decided to fix an evidential hearing on both applications. It issued a direction to both parties on 1 October 2025, directing them to provide further information at least 14 days before the hearing.
14. A response to the direction was received from Miss Wooley on behalf of the Applicant on 5 February 2026. This included an application to amend the sum claimed to £15585, together with an updated rent statement.
15. No response to the direction, other written representations or time to pay application were received from either of the Respondents prior to the hearing.

The hearing

16. A hearing was held on 19 February 2026 by telephone conference call to consider both the present application and the accompanying eviction application. The Applicant was again represented by Miss Wooley. Miss Wooley was accompanied by her colleague Miss Capaldi, who attended as an observer.
17. Neither Respondent was present or represented on the teleconference call. The tribunal delayed the start of the hearing by 10 minutes, in case the Respondents had been detained. They did not attend the teleconference call,

however, and no telephone calls, messages or emails had been received from them.

18. The tribunal was satisfied that the requirements of rule 24 of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”) regarding the giving of reasonable notice of the date and time of a hearing had been duly complied with. It therefore proceeded with the hearing in the absence of the Respondents.
19. Miss Wooley told the tribunal that she had received confirmation the previous day that the Respondents had vacated the property and that the keys had been returned. She confirmed that the Applicant therefore wished to withdraw the eviction application. The Applicant wished, however, to proceed with the present application. Miss Wooley confirmed that the outstanding rent arrears as at 18 February 2025 amounted to £15255, having apportioned the rent shown on the updated rent statement as being due for February 2026 up until this date.

Preliminary issues

20. The tribunal was satisfied that the Applicant was the executrix of her grandmother Mrs Yuile, and had title to the property in that capacity. It noted that no representations had been received from the Respondents opposing the requested amendment to amend her designation accordingly. The tribunal therefore allowed the amendment.
21. The tribunal was also satisfied on the basis of the updated rent statement and Miss Wooley’s oral submissions that the outstanding rent arrears as at 18 February 2025 amounted to £15255. The amendment had been notified to both the tribunal and the Respondents at least 14 days before the hearing, as required in terms of rule 14A of the 2017 rules. No representations had been received from the Respondents opposing Miss Wooley’s amendment request of 5 February 2026 to increase the sum sought. The tribunal therefore allowed the amendment.

Submissions on behalf of the Applicant

22. Miss Wooley confirmed that neither she nor the Applicant had received any communication from the Respondents since the adjourned CMD on 1 October 2025. The Respondents has been continually in rent arrears since May 2022, and had made no rent payments at all since October 2025. She asked the tribunal to make a payment order by the Respondents for the sum of £15255 in favour of the Applicant.

23. She also asked the tribunal to award interest on the sum due from the date of its decision at the judicial rate of 8%. She submitted that it would be reasonable to apply interest at this rate, given the length of time the Respondents had been in arrears, the fact that they had made payments only towards the ongoing rent rather than the arrears, and their failure to engage with the Applicant or to propose a payment plan.

24. Miss Wooley confirmed that, in the event that the Applicant was awarded all or some of the £1650 tenancy deposit paid by the Respondents towards the arrears, that sum would be deducted from the amount included in any payment order.

Findings in fact

25. The Tribunal made the following findings in fact:

- The Applicant has title to the property as the executrix of Mrs Elizabeth Yuile. Confirmation on Mrs Yuille's estate was granted in favour of the Applicant, who was the sole beneficiary of her estate, on 13 October 2011.
- The Applicant is the registered landlord of the property.
- A private residential tenancy agreement was entered into between the Applicant and the Respondents, which commenced on 29 April 2022.
- The rent payable under the tenancy agreement was £1100 per calendar month, payable in advance on the 29th day of each month.
- The Applicant complied with the pre-action requirements, and has therefore notified the Respondents that they owed the arrears.
- As the date of the hearing, the Respondents owed the Applicant £15255 in rent arrears.

Reasons for decision

26. While it appeared that the second Respondent had moved out of the property some time ago, her name remained on the tenancy agreement. The Tribunal was therefore satisfied that the Respondents are jointly and severally liable for the rent arrears incurred under the tenancy agreement.

27. The tribunal granted the Applicant's request to amend the sum sought to £15255.

28. The tribunal was satisfied that the Respondents owed the Applicant £15255 in rent arrears as at the date of the hearing. The tribunal was satisfied that both Respondents had been given fair notice of the sum claimed.

29. 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.
30. On the basis of all the evidence before it, the tribunal was satisfied that the Respondents owed the Applicant £15255. It therefore grants an order for payment by the Respondents to the Applicant for that amount.
31. The tribunal considered Miss Wooley's request for interest to be granted on the sum due at the judicial rate of 8% from the date of the decision. Having considered the submissions which she had put forward regarding this, the Tribunal did not consider that it would be reasonable to grant interest in terms of rule 41A (2) of the 2017 rules. It therefore declined to include interest in the order for payment.

Decision

The tribunal grants an order for payment by the Respondents to the Applicant for the sum of £15255.

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

Legal Member/Chair

— _____ **19 February 2026** _____
Date