

Housing and Property Chamber
First-tier Tribunal for Scotland



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 and in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/21/0153

Re: Property at Flat 3/1, 149 Ingram Street, Old Sheriff Court Building, Glasgow, G1 1DW (“the Property”)

Parties:

Serena Solitaire Bute, Executor of the late John Bute, 5th Floor, Crown House, 56-58 Southwark Street, London, SE1 1UN;

Anthony Crichton Stuart, Executor of the late John Bute, 13 Horbury Crescent, London, W11 3NF;

Sophia Anne Crichton Stuart, Executor of the late John Bute, 31A Hatherley Grove, London, W2 5RB and

Stephen Hudson Jenkins, Executor of the late John Bute, 50 Westbourne Terrace, London, W2 3UH, collectively the “Executors of the late John Bute”

(“the Applicant”) represented by Ms. Leona Duff of c/o Aberdeen Considine, 2nd Floor Elder House, Elder Street, Edinburgh, EH1 3DX (“the Applicant’s Agent”)

Mr Craig Jones, Flat 3/1, 149 Ingram Street, Old Sheriff Court Building, Glasgow, G1 1DW (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gerard Darroch (Ordinary Member)

Decision in the absence of the Respondent

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order in the sum of £17,825.00 together with interest at the rate of 8% per annum from the date of the order be granted.
be granted.**

Background

1. By application received on 8 March 2021 ("the Application"), the Applicant's Agent applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a payment order for rent due and owing arising from a private residential tenancy agreement between the Parties. The Application comprised an application form, copy private residential tenancy agreement and a rent statement showing arrears amounting to £14,734.25 due to the date of the Application. The Application sought interest on the sum due.
2. On 9 March 2021, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 26 March 2021 at 14.00 by telephone conference call. The Application was intimated to the Respondent. The CMD was intimated to both Parties.
3. Prior to that CMD, the Applicant's Agent by email intimated to the Tribunal that the rent due and owing by the Respondent had increased and, as at 24 February 2021, the sum due and owing amounted to £17,825.00 and moved to amend the Application accordingly. The Tribunal being satisfied that the application to amend the sum claimed had been intimated on the Respondent, amended the Application as requested.
4. Prior to that CMD, the Respondent wrote to the Tribunal by email dated 24 March 2021 explaining that he had lost his job, suffered from ill-health and offering to pay £10.00 per week towards the rent arrears. He also indicated that his daughter was assisting him and would represent him, albeit no further detail or information on that was provided by him.
5. Also prior to that CMD, the Applicant's Agent, by email dated 25 March 2021, wrote to the Tribunal to advise that the Applicant had passed away and that the Application would require to be amended in terms of Rule 31 of the Rules and sought a four-week adjournment for this purpose.

CMD

6. The CMD took place on 26 March 2021 at 14.00 by telephone conference call. The Applicant's Agent was present. The Respondent was present on the call but withdrew from the call before the adjournment discussions had been concluded.
7. The Applicant's Agent advised the Tribunal that contact had been via the late Applicant's personal assistant with the four executors of the Applicant's estate and that instructions were being sought to act on their behalf and to amend the Application in terms of Rules 31 and 32 of the Rules. Accordingly, the Tribunal continued the CMD to Monday 26 April 2021 at 10.00 am for this purpose.
8. The Tribunal by Direction dated 26 March 2021, directed the Respondent in terms of Rule 16 of the Rules to submit a written note of any opposition which he might have to the Application.

9. Prior to the continued CMD, the Applicant's Agent submitted an application in in terms of Rule 31 of Schedule 1 to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules") from the Applicant's Agent that the Executors of the late John Bute be substituted in his place as Applicant. By Order dated 23 April 2021, The Tribunal granted that application, substituted the Executors of the late John Bute as Applicant and, in terms of Rule 31(3) of the Rules, continued the Application FTS/HPC/CV/21/0153 in their name.
10. No response to the Direction was received from the Respondent.

Continued CMD

11. The continued CMD took place on Monday 26 April 2021 at 10.00 am by telephone conference call. The Applicant's Agent was present. None of the Applicants nor the Respondent was present on the call.
12. The Applicant's Agent by oral submission and in answer to the Tribunal's questions advised the Tribunal that the rent due and owing by the Respondent continued to increase and that no payments had been received since a £100.00 payment on 20 June 2020.
13. The Applicant's Agent's confirmed that there had been no response from the Respondent to the Applicant's Agent's pre-action letter of 16 February 2021 and that there had been no communication from the Respondent's daughter or any other person or organisation on his behalf.
14. The Applicant's Agent's confirmed that the amount sought is £17,825.00 to 24 February 2021 and that interest in terms of the private residential tenancy agreement at the rate of 8% per annum is sought.

Findings in Fact.

15. From the Application and the CMD, the Tribunal found the following facts to be established: -
- i) There was a private residential tenancy agreement between the Parties in respect of which the monthly rent was £1,150.00 and was due on the 24th of each month;
 - ii) The Respondent failed to pay the rent due on 24 December 2019 and has failed to pay rent due on each consecutive month thereafter;
 - iii) As at 24 February 2021, rent amounting to £17,825.00 is due and owing by the Respondent to the Applicant and
 - iv) The Application intimates that interest on the sum due is sought.

Decision and Reasons for Decision

1. Having found in fact that rent amounting to £17,825.00 is due and owing by the Respondent to the Applicant and that a claim for interest on the sum due was intimated to the Respondent, and having regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussionincluding making a decision” and proceeded to make an order for payment of £17,825.00 together with interest at the rate of 8% per annum from the date of the order.

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	26 April 2021
_____ Legal Member/Chair	Date