

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

Chamber Ref: FTS/HPC/CV/22/3944

Re: Property at Inchmartine Cottage, Perth, PH14 9QQ (“the Property”)

Parties:

Perthshire Caravans Limited, Dundee Road, Errol, Perthshire, PH2 7SR (“the Applicant”) and

Thorntons Law LLP, Third Floor, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Applicant’s Representative”) and

Mr Frank Sime, Inchmartine Cottage, Perth, PH14 9QQ (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

G. Darroch - Ordinary Member

Decision in absence of the Respondent

Background

- 1. The Applicant had applied under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”) (Application for civil proceedings in relation to a private residential tenancy) for an order for payment in respect of rent arrears.**

Case Management Discussions

- 2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call on 14th February 2023. Reference is made to the Notes on that CMD dated 15th February 2023.**
- 3. A further CMD proceeded remotely by telephone conference call at 10am on 16th May 2023. The Applicant’s Representative’s Mr C. Gordon attended. The Respondent did not attend and was not represented.**
- 4. In advance of the CMD on 16th May 2023 Mr Gordon had lodged additional papers seeking to amend the amount of the payment order sought to the sum of £8,750.00, being the rent arrears due at 2nd May 2023. At the CMD on 16th May 2023 Mr Gordon submitted that the Respondent had not made payment of any rent since the commencement of the tenancy and that 10 months arrears of rent, in the said sum of £8,750.00, were now owing. Mr Gordon sought that the Tribunal grant a payment order in respect of that sum together with interest at a rate deemed appropriate by the Tribunal.**

Statement of Reasons for Decision

- 5. In reaching their decision the Tribunal had regard to the terms of Section 71 of The Private Housing (Tenancies) Act 2016 provides as follows:**
 - (1) In relation to civil proceedings arising from a private residential tenancy-**
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),**
 - (b) a sheriff does not have competence or jurisdiction.**
 - (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-**
 - (a) the prosecution of a criminal offence,**
 - (b) any proceedings related to such a prosecution.**
- 6. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rent against a tenant (such as the Respondent) in respect of a PRT such as this.**
- 7. The Tribunal considered all of the Application papers, and the submission of Mr Gordon. Having done so, the Tribunal found, on a balance of probabilities, that the Respondent had not made payment of any rent due in respect of the parties’ Private Residential Tenancy Agreement (“PRT”) and that there are currently rent arrears of £8,750.00 owing. The Tribunal was also satisfied that the Application papers had been validly served on the Respondent by Sheriff Officers on 4th January 2023. The Respondent had not lodged representations with the Tribunal or attended the CMDs to provide any evidence, and/or make any submission, to oppose and**

contradict the basis for the order sought by the Applicant. Accordingly, the Tribunal was satisfied that it was reasonable to grant an order for payment by the Respondent to the Applicant in the total amount of £8,750.00. The Tribunal decided that it was fair and just to award interest on that sum, from the date of their decision, at the rate of 5% per annum.

Decision

8. Therefore, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of EIGHT THOUSAND SEVEN HUNDRED AND FIFTY POUNDS (£8,750.00) STERLING with interest thereon at the rate of 5% per annum running from the date of the Tribunal's decision until payment.

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.

Gerald McWilliams

G McWilliams

Legal Member

16th May 2023

Date