

# 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/23/0651**

**Re: Property at 15 Thornyflat Street, Ayr, KA8 0NQ (“the Property”)**

**Parties:**

**Edgar Residential Property Limited, 60 Fullerton Drive, Troon, KA10 6LF (“the Applicant”) and**

**Waddell and Mackintosh Solicitors Limited, 36 West Portland Street, Troon, KA10 6AB (“the Applicant’s Representative”) and**

**Mr John Lowe, 15 Thornyflat Street, Ayr, KA8 0NQ (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**S. Brydon - 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 Discussion**

2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call on 27<sup>th</sup> June 2023. The Applicant’s representative’s Mr A. Stevenson attended. The Respondent Mr Lowe did not attend and was not represented.

3. Mr Stevenson confirmed that the Respondent had not paid any rent since July 2022 and that the rent arrears currently owing are in the sum of £8,125.00. Mr Stevenson had sent an updated Rent Statement to the Tribunal's office, confirming that outstanding rent arrears sum, by e-mail on 12<sup>th</sup> June 2023. Mr Stevenson sought that the Tribunal grant an order for payment of the outstanding rent arrears amount of £8,125.00.

### **Statement of Reasons for Decision**

4. 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.

5. 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 private residential tenancy ("PRT").

6. The Tribunal considered all of the Application papers and the submission of Mr Stevenson. Having done so, the Tribunal found, on a balance of probabilities, that there were arrears owing of £8,125.00.

7. The Tribunal was satisfied that the Application papers had been validly served on the Respondent by Sheriff Officers on 26<sup>th</sup> May 2023. The Tribunal was also satisfied that the Applicant had given notice of their intention to seek a payment order in the amount of rent arrears owing at the date of the Hearing, as this was specified in the Application Form. The Respondent had not lodged representations with the Tribunal or attended the CMD to provide any evidence, and/or make any submission, to oppose and contradict the basis for the order sought by the Applicant.

8. 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 £8,125.00.

### **Decision**

9. Therefore, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of EIGHT THOUSAND ONE HUNDRED AND TWENTY FIVE POUNDS (£8,125.00) STERLING.

## **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**

**27<sup>th</sup> June 2023**

---

**Legal Member**

---

**Date**