

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/23/0639

Re: Property at 39 Rannoch Place, Irvine, KA12 9NH (“the Property”)

Parties:

Easton Property Newfield Limited, 2 Newfield Drive, Kilmarnock, KA2 9EW (“the Applicant”) and

Easton Housing Limited, 2 Newfield Drive, Kilmarnock, KA2 9EW (“the Applicant’s Representative”) and

Ms Kimberley Findlay, 39 Rannoch Place, Irvine, KA12 9NH (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

E Dickson - 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 9th May 2023. The Applicant’s representative’s Ms A. Barclay attended. The Respondent Ms Findlay did not attend and was not represented.

3. Ms Barclay confirmed that since lodging the Application the Applicant had received one further payment towards rent, of £458.49, from DWP on 31st March 2023 and also two payments towards rent arrears, also from DWP, of £33.49 on 2nd March 2023 and £23.86 on 2nd May 2023. Ms Barclay confirmed that the Applicant had not received any further payments towards rent since 31st March 2023 and that the current rent arrears amount owing is £7,117.06. Ms Barclay sent an updated Rent Statement to the Tribunal's office by email shortly after the end of the CMD. The Statement confirmed the rent arrears amount due of £7117.06. Ms Barclay also stated that she understood that the Respondent lives alone at the Property but that she had no further information regarding the Respondent's personal circumstances. She stated that she had not received any communication from the Respondent since serving the Notice to Leave and accompanying papers in October 2022. Ms Barclay said that she had received an Information for Tenancy Notice from North Ayrshire Council, in respect of the Respondent, on 3rd February 2023 and understood therefore that the Respondent had applied for another tenancy with her local authority. Ms Barclay sought an Order for payment of the outstanding rent arrears amount in the total sum of £7,117.06.

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, and in relation to other losses, against a tenant (such as the Respondent) in respect of a PRT such as this.

6. The Tribunal considered all of the Application papers, and the submission of Ms Barclay. Having done so, the Tribunal found, on a balance of probabilities, that there were arrears of more than three months' rent and the outstanding rent arrears amount was £7,117.06.

7. The Tribunal was satisfied that the Application papers had been validly served on the Respondent by Sheriff Officers on 3rd April 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 £7,117.06.

Decision

9. Therefore, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of SEVEN THOUSAND ONE HUNDRED AND SEVEN POUNDS and SIX PENCE (£7,117.06) 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.

[Redacted Signature]

G McWilliams

9th May 2023

Legal Member

Date