

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 ("The Act").

Chamber Ref: FTS/HPC/CV/21/2357

Re: Property at Upper Flat, 143 Commercial Street, Kirkcaldy, KY1 2NS ("the Property")

Parties:

Mr Malcolm Howes, 20 Strathalmond Road, Edinburgh, EH4 8AF ("the Applicant")

Mr Christopher Symaniak, Unknown, Unknown ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:

Background

The Applicant seeks a Payment Order against the Respondent in the sum of £1,350.00 for rent arrears said to have been accrued by the Respondent under a tenancy between the parties. The Application is accompanied by a copy of the tenancy agreement and a rent statement.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 27 January 2022. Sheriff Officers had been unable to locate the Respondent and

so permission had been granted for the Application to be served on the Respondent by advertisement on the Tribunal's website, which was then subsequently effected.

The Application called alongside a related Application in respect of an Eviction Order between the parties. The Applicant was personally present. There was no appearance by or on behalf of the Respondent. The Tribunal decided it was appropriate to proceed in the absence of the Respondent.

Having heard from the Applicant and considered the documentation, the Tribunal made the following findings in fact.

Findings in Fact

- I. The Applicant and the Respondent entered into a tenancy at the Property which commenced on 25 May 2019;*
- II. The Applicant was the landlord and the Respondent was the tenant;*
- III. Around July 2021, the Respondent stopped paying the contractual monthly rent due of £450.00;*
- IV. Around this same time, the Applicant first became aware that the Respondent had vacated the Property without informing the Applicant;*
- V. The Applicant has made extensive attempts to contact the Respondent to confirm his whereabouts but has received no response;*
- VI. The Applicant has communicated with neighbours who have confirmed that the Respondent appears to have left the Property some time ago and moved to Ireland;*
- VII. The Local Authority have suggested to the Applicant that the Respondent may not be living in the Property;*
- VIII. The sums claimed are lawfully due by the Respondent as rent to the Applicant but remain unpaid.*

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order against the Respondent in the sum of £1,350.00.

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.

Andrew McLaughlin

27/01/2022

Legal Member/Chair

Date