

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71 of the of the Private
Housing (Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/21/2442

Re: Property at Flat F, 20 Hill Street, Montrose, Angus, DD10 8AZ (“the Property”)

Parties:

John Douglas Grieg, Wendy McSheffrey, 52 Cauldhame Rigg, Stewarton, Kilmarnock, KA3 5QJ (“the Applicant”)

Mr Callum Slevin, Flat F, 20 Hill Street, Montrose, Angus, DD10 8AZ (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondent for the sum of £1550.

Introduction

This CMD concerned an Application for Civil Proceedings in relation to a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference due to the covid-19 pandemic.

1. Attendance and Representation

The Applicant was present and represented by Alexandra Wooley, solicitor, Bannatyne Kirkwood France & co, 16 Royal Exchange Square, Glasgow, G1 3AG, attended for the Applicant.

The Respondent was not present. There had been no contact and he had been sent a copy of the productions recently from the Applicant.

2. Previous Procedure

The Tribunal determined at an earlier Case Management Discussion (“CMD”) that the issue of reasonableness could not be determined on the evidence before it at that CMD in relation to a related Application for Eviction. The Tribunal fixed a Hearing in that case and this case to proceed to a further CMD in order for it to be fully determined alongside the Application for Eviction.

3. Preliminary Matters

The Respondent was not present. He had been present at the CMD which called previously. There had been no contact since the CMD from the Respondent to the Applicant or to the Tribunal and he was aware of the Hearing.

The Applicant’s representative referred to the Application to amend the sum sought to £1550 lodged in advance of the Hearing and intimated on the Respondent and the Tribunal.

There were no other preliminary issues raised.

4. Summary of Hearing

The Applicant set out that the rent for the property in terms of the agreement was £300 per month. She said the level of rent arrears was now £1550 and reference was made to the rent statement lodged. She referred to bank account information which showed payments made and the management of the property. The Applicant said the letting agent had written to the Respondent regarding the rent arrears and she knew now the Respondent had applied for universal credit.

5. Submission

The Applicant’s solicitor set out that she sought an Order for Payment for the sum of £1550 in terms of Section 71 Private Housing (Tenancies) (Scotland) Act 2016.

6. Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent and at the CMD based on the information before the Tribunal. The Respondent had been present at the CMD and the Tribunal**

had intimated the date to the Respondent and the Applicant had lodged productions with the Respondent. It was in the interests of the parties having regard to the Overriding objective to proceed.

2. The Applicants sought an Order for Payment.
3. The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property as a copy title was lodged with the Application.
4. There was a PRT in place between parties dated 31st January 2019.
5. The rental payment in terms of this agreement was £300 per calendar month.
6. Rent due by the Respondent to the Applicant in terms of the rent statement lodged was £1550.
7. The Tribunal was satisfied on balance that it was appropriate to grant a Payment Order for £1550.
8. Accordingly, in terms of Section 11 of the 2016 Act the Tribunal granted a Payment Order against the Respondents.

7. Reasons for Decision in Absence.

The Tribunal heard credible and reliable evidence from the Applicant together with substantial productions related to the property and rent arrears. The Tribunal declined on this occasion to exercise its discretion to award interest in all the circumstances. The Respondent was not present and although the application sought interest there was no specification suggested in the application and in the interests of justice and fair notice the Tribunal in its discretion did not award interest in all the circumstances.

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.

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Legal Member: Karen Kirk

Date: 31st January 2022