



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

Chamber Ref: FTS/HPC/CV/22/0579

Re: Property at 116 Inveraray Avenue, Glenrothes, Fife, KY7 4QR (“the Property”)

Parties:

Mr Anthony Kevin Kerr, Mrs Audrey Frances Jean Kerr, 11 Balgeddie Park, Glenrothes, Fife, KY6 3NY (“the Applicants”)

Mr Arran Haddow, Miss Molly MacKenzie, 116 Inveraray Avenue, Glenrothes, Fife, KY7 4QR (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

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

Background

This was an application for a payment order dated 28th March 2022 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants sought in their application payment of arrears in rental payments of £3,650.00 in relation to the Property from the Respondents, and provided with their application copies of the private residential tenancy agreement, rent increase notice and rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and

the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 17th May 2022, and the Tribunal was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held at 10:00 on 17th June 2022 by Tele-Conference. The First Applicant participated, and was not represented. The First Applicant represented the Second Applicant. The Respondents did not participate, nor were they represented. The Respondents had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal noted that the rent arrears statement appeared to show rent arrears due at the date of the application as being £3,640.00. The First Applicant confirmed that was the correct figure, and that the figure of £3,650.00 contained in his application was an error.

The Tribunal was invited by the First Applicant with reference to the application and papers to grant an order for payment of the sum of £3,640.00. The First Applicant explained that the Respondents had ceased making payment of the rent due and thereafter failed to respond to any communications sent to them.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

“First-tier Tribunal's jurisdiction

- (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.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the rent arrears information provided, and the submissions made by the First Applicant, and was satisfied that these disclosed an outstanding balance of rent arrears due as at the date of the application of £3,640.00. Rent of £495.00 per month was due in terms of Clause 8 of the tenancy agreement, which was increased by notice to the tenant dated 18th July 2021 to the sum of £550.00 with effect from 18th October 2021. Accordingly, the Tribunal shall make an order for payment of that sum

Decision

In these circumstances, the Tribunal made an order for payment by the Respondents jointly and severally to the Applicants of the sum of £3,640.00.

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.

Neil Kinnear

Legal Member/Chair

17/06/2022

Date