

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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/22/2478**

**Re: Property at Flat 2/L, 21 Moorburn Road, Largs, KA30 9JA (“the Property”)**

**Parties:**

**Lochscape Property LLP, Lochscape House, Argyll Road, Kilcreggan, Helensburgh, G84 0JW (“Applicant”) and**

**Ms Eilidh Suzanne Beck, formerly residing at Flat 2/L, 21 Moorburn Road, Largs, KA30 9JA and whose present whereabouts are unknown (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**L Reid - 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 as well as property clearance and remedial works’ costs.**

### **Case Management Discussions**

- 2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call on 24<sup>th</sup> January 2023. Reference is made to the Notes on that CMD which were prepared and issued by the Tribunal.**

3. A further CMD proceeded remotely by telephone conference call at 11.30am on 14<sup>th</sup> February 2023. The Applicant's partner Mrs L. Young attended. The Respondent did not attend and was not represented.
4. In advance of the CMD on 14<sup>th</sup> February 2023 the Applicant had lodged an updated Rent Statement, on 24<sup>th</sup> January 2023, confirming outstanding rent arrears of £6060.00. At the CMD on 14<sup>th</sup> February 2023 Mrs Young was not able to provide any information regarding the whereabouts or current circumstances of the Respondent. Mrs Young referred to the papers which she had lodged in respect of the Applicant's payment of invoices for property clearance costs, of £900.00, and bird damage remedial works' costs, of £666.00. Mrs Young sought an Order for Payment of the outstanding rent arrears amount as well as the property clearance and remedial works' costs, in the total sum of £7,246.00, having deducted the Respondent's deposit monies of £380.00.

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

5. 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.

6. 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.

7. The Tribunal considered all of the Application papers, and the submission and representations of Mrs Young. 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 £6060.00. The Tribunal was also satisfied that the Applicant had paid property clearance costs of £900.00, and bird damage remedial works' costs of £666.00 and that these were losses incurred as a result of the condition of the property caused by the Respondent's occupation there.

8. The Tribunal was also satisfied that the Application papers had been validly served on the Respondent by Advertisement. The Respondent had not lodged representations with the Tribunal or attended the CMDs to provide any evidence, and/or make any submission, to oppose and contradict the basis for the order sought by the Applicant.
9. 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 £7,246.00.

### **Decision**

10. Therefore, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of SEVEN THOUSAND TWO HUNDRED AND FORTY SIX POUNDS (£7,246.00) 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.

**G McWilliams**

**14<sup>th</sup> February 2023**

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**Legal Member**

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**Date**