

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/21/1311

Re: Property at 93d East Main Street, Darvel, Ayrshire KA17 0JQ (“the Property”)

Parties:

Mr Kevin Wright, 32 Endowood Road, Sheffield, S7 2LZ (“the Applicant”), and

Clarity Simplicity Lt, 34 Woodlands Road, Glasgow, G3 6UR (“the Applicant’s Representative”) and

Mr Daryl McWilliam, 93d East Main Street, Darvel, Ayrshire KA17 0JQ (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

G Darroch- Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:

Background

1. This is an Application for a payment order, contained within papers lodged with the Tribunal between 1st June 2021 and 23rd June 2021, 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 Rules of Procedure (“the 2017 Rules”).
2. In the Application, the Applicant sought payment of arrears in rental payments of £1383.05, in relation to the Property, from the Respondent, and provided

copies of the parties' original written tenancy agreement, a Rent Statement and copies of her Bank Statements. The Applicant amended the sum of rent arrears sought to £2403.05, and lodged an updated Rent Statement, on 4th August 2021

3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 22nd July 2021, and the Tribunal was provided with the Certificate of Intimation. The Respondent did not lodge any representations in respect of the Application following such service.

Case Management Discussion on 19th August 2021

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 10am today, 19th August 2021. The Applicant's Representative's Ms L Dalglish attended. The Respondent did not attend and was not represented. Ms Dalglish sought a payment order in the sum claimed of £2403.05 with interest at the rate of 8% per annum. She submitted that as the Respondent had been effectively served with all papers in respect of the Application, and had not lodged any representations with the Tribunal, nor attended at the CMD, the payment order sought should be granted. Ms Dalglish further submitted that the Applicant, and his letting agent, were not aware of the Respondent having a current Universal Credit ("UC"), Housing Element claim, following the Applicant's receipt of one payment from UC, of £195.48 on 4th 2021.

Statement of Reasons for Decision

5. 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 against a tenant (such as the Respondent) in respect of a tenancy such as this.

7. The Respondent had been validly served with all of the Application papers, and notified of the CMD, but had not lodged representations with the Tribunal,

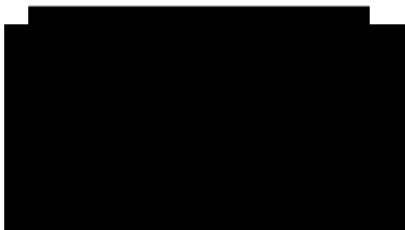
or attended the CMD to provide evidence, and/or make any submission, opposing the order sought. The Tribunal considered the terms of the parties tenancy agreement and the copy documentation provided by the Applicant's Representative on behalf of the Applicant, as well as the submission made by their Ms Dalgleish today, and is satisfied that there is an outstanding amount of rent arrears due of £2403.05 and that it is reasonable to grant an order for payment by the Respondent to the Applicant in that amount. The Tribunal also consider that it is reasonable and proportionate to apply interest to that amount at the rate of 4% per annum, from the date of today's decision.

Decision

8. Accordingly, the Tribunal makes an order for payment by the Respondent to the Applicant of the sum of £2403.05, with interest at the rate of 4% per annum from the date of this decision until payment is made.

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.



19th August 2021

Legal Member

Date