

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/22/0986

Re: Property at 86 Kestrel Road, Knightswood, Glasgow G13 3QT (“the Property”)

Parties:

Mr Edward Spence, 75 Millburn Avenue, Clydebank, G81 1ER (“the Applicant”), and Western Lettings Limited, Suite 5, Platinum House, 23 Eagle Street, Glasgow, G4 9XA (“the Applicant’s Representative”) and

Ms Michelle McCorquodale, 64 Knightsbridge Street, Glasgow G13 2YN (“the Respondent”)

Tribunal Member:

G McWilliams- Legal Member

Decision in absence of the Respondent

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

Background

1. This is an Application for a payment order, contained within papers lodged with the Tribunal between 4th April 2022 and 22nd April 2022 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 £2300.00.00, in relation to the Property, from the Respondent and provided

copies of the parties Private Residential Tenancy Agreement (“PRT”) and a Rent Arrears Statement.

3. The PRT had been correctly and validly prepared in terms of the provisions of The Private Housing (Tenancies) Act 2016 and the procedures set out in that Act had been correctly followed and applied.
4. The Respondent had been validly served with the Application papers by Sheriff Officers on 8th June 2022. The Tribunal was provided with the Certificate of Service.

Case Management Discussion

5. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2pm today, 21st July 2022. The Applicant’s Representative’s Ms E Duff attended. The Respondent did not attend and was not represented. Ms Duff stated that the outstanding rent due is in the sum of £2300.00.00. Ms Duff submitted that as the Respondent had been effectively served with all papers in respect of the Application for an order for payment, and had not lodged any representations with the Tribunal, nor attended at the CMD, the payment order sought in the Application, in the sum of £2300.00, should be granted. Ms Duff also said that subsequent to the lodging of the Application the Respondent had incurred further rent arrears of £189.04. She further stated that the Applicant hoped to recover the Respondent’s deposit monies, of £525.00, from Safe Deposits Scotland. Ms Duff stated that the Applicant will deduct deposit monies credited to the rent account when carrying out any enforcement action in respect of any order for payment granted. Ms Duff submitted that the Applicant did not seek to recover interest on outstanding monies. Ms Duff also said that the Respondent had called her after service of the Application papers but had not made any proposal to resolve the issue of the outstanding rent arrears.

Statement of Reasons for Decision

6. 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.

7. 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 PRT such as this.
8. 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 PRT and the copy Rent Arrears Statement provided, as well as the submission made by the Representative's Ms Duff, and was satisfied that it was reasonable to grant an order for payment by the Respondent to the Applicant in the amount sought in the Application, of £2300.00.

Decision

9. Accordingly, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of £2300.00.

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.

G. McWilliams

G McWilliams

21st July 2022

Legal Member

Date