

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 2014

Chamber Ref: FTS/HPC/CV/20/1925

Re: Property at 16 Bloomfield Court, Aberdeen, AB10 6DS (“the Property”)

Parties:

Kilkenny Properties Limited, 8 Victoria Street, Aberdeen, AB10 1XB (“the Applicant”),

Martin & Co, 123-125 Rosemount Place, Aberdeen, AB25 2YH (“the Applicant’s Representative”) and

Mr Babafemi Ogunsanwo, 16 Bloomfield Court, Aberdeen, AB10 6DS (“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 on 11th September 2020, 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 of rent, of £2625.00, 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 by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 24th September 2020, and the Tribunal was provided with the Certificate of Intimation.

Case Management Discussion

5. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2pmm on 27th October 2020. The Applicant’s Representative’s Mr A. Morrow attended. The Respondent did not attend and was not represented. Mr Morrow stated that the outstanding rent due at the date of the Application was £2625.00, and was now in the sum of £.3375.00 after the rent due in September and October 2020 was not paid. He submitted that the Respondent had last paid rent in February 2020. Mr Morrow acknowledged that the order for payment sought, and intimated to the Respondent, was in the sum of £2625.00. Mr Morrow 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 £2625.00, should be granted. Mr Morrow indicated that an Application for a further order for payment, in respect of a balance of arrears of rent due, may be lodged in the future.

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 Mr Morrow, and was satisfied that there was an outstanding balance of rent arrears of £2625.00 due when the Application was submitted and that it was reasonable to grant an order for payment by the Respondent to the Applicant in that amount.

Decision

9. Accordingly, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of £2625.00.

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

27th October 2020

Legal Member

Date