

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/21/0318

Re: Property at 52 Burns Court, Kirkintilloch, G66 2NP (“the Property”)

Parties:

Mr James Jackson, residing at 26 Hawthorn Avenue, Lenzie, Glasgow, G66 8JA (“the Applicant”), and

Ms Michelle McKenzie, residing at 6 Fernleigh Place, Moodiesburn, Glasgow, G69 0DS (“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 12th February 2021 and 5th April 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 £1419.72.00, in relation to the Property, from the Respondent, and provided copies of the parties Private Residential Tenancy Agreement (“PRT”)

and his Bank Statements, showing rent payments made by the Respondent, and a Rent Transfer Report..

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 23rd April 2021, and the Tribunal was provided with the Certificate of Intimation.

Case Management Discussion on 25th May 2021

5. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 10am on 25th May 2021. The Applicant attended. The Respondent did not attend and was not represented. The Applicant sought a payment order in the sum claimed, of £1419.72, and interest. He stated that he had received the deposit monies of £525.00 from Safe Deposits Scotland and this credit was taken account of in the sum claimed. He 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 should be granted. The Applicant stated that he had been advised, by his solicitor, to seek interest. He stated that he had not included a tracing agent fee, of £90.00, in his Application, but may submit a separate Application in this regard.

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 documentation provided by the Applicant, as well as the submission made by him today, and was satisfied that there was an outstanding net balance of rent arrears due of £1419.72 and that it was reasonable to grant an order for payment by the Respondent to the Applicant in that amount. The Tribunal also considered that it was reasonable and proportionate to apply interest to that amount at the rate of 3% per annum, from the date of today's decision. The Applicant stated that he agreed with the Tribunal's decision regarding interest.

Decision

9. Accordingly, the Tribunal made an order for payment of the sum of £1920.10 with interest at the rate of 3% 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.

G.Mc.

G McWilliams

25th May 2021

Legal Member

Date