



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/2806

Re: Property at Flat C, 3 Kerr Street, Barrhead, Glasgow, G78 1JS (“the Property”)

Parties:

Mr Artur Szeligiewicz, 0/1, 17 Wiltonburn Road, Glasgow, G53 7JA (“the Applicant”)

Ms Daria Domienika Pniewska, Flat C, 3 Kerr Street, Barrhead, Glasgow, G78 1JS (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application for a payment order dated 9th September 2019 and brought 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 (Procedure) Regulations 2017* as amended.

The Applicant originally sought in his application payment of arrears in rental of £2,200.00 as at the date of the application, but subsequently sought to amend this figure at the first Case Management Discussion of 8th January 2020 in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant provided with his application copies of the private residential tenancy agreement and rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 27th November 2019, and the Tribunal was provided with the execution of service.

A Case Management Discussion was held on 8th January 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant appeared, and was not represented. The Respondent did not appear, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Applicant produced an updated rent arrears statement to the Tribunal, and sought an order for this amount. The Tribunal explained the procedure under Rule 14A to amend the sum sought, continued the application, and directed the Applicant to intimate the request to amend in writing to both the Tribunal and the Respondent.

The further Case Management Discussion was intimated to the Respondent by recorded delivery letter dated 13th January 2020.

Further Case Management Discussion

A further Case Management Discussion was held on 13th February 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant again appeared, and was not represented. The Respondent again did not appear, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Applicant had e-mailed the Tribunal on 11th February 2020 confirming the updated amount of rent arrears of £3,060.00 he was seeking, as earlier intimated to the Tribunal at the Case Management Discussion of 8th January 2020.

The Tribunal enquired about whether the Applicant had intimated his request to amend in writing to the Respondent, as he had been directed to.

The Applicant explained that he had given a copy of the amendment request to the Respondent in person. He had met with her at the Property on 30th January 2020, and had personally given her a copy then.

The Applicant invited the Tribunal with reference to the application and papers to grant an order for payment of the sum of £3,060.00. Monthly rent of £555.00 is due to be paid in advance in terms of clause 4 of the private residential tenancy agreement.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

"First-tier Tribunal's jurisdiction

- (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."

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the copy updated rent arrears statement provided, and the submissions made by the Applicant, and was satisfied that these disclosed an outstanding balance of rent arrears in the sum sought of £3,060.00.

Section 26 of the *Interpretation and Legislative Reform (Scotland) Act 2010*, which applies to Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, provides that intimation may be made by personal delivery.

Accordingly, the Tribunal shall make an order for payment of the sum sought.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £3,060.00.

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.



Legal Member/Chair

13/02/20

Date