

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/21/0739

Re: Property at 478 Castlemilk Road, Glasgow, G44 5PS (“the Property”)

Parties:

Mrs Christine Davies, 7/1 104 Lancefield Quay, Glasgow G3 8HF (“the Applicant”), and

Mr Graeme Ferguson, 478 Castlemilk Road, Glasgow, G44 5PS (“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 24th March 2021 and 8th 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 £764.00, 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.

3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 28th April 2021, and the Tribunal was provided with the Certificate of Intimation.

Case Management Discussion on 27th May 2021

4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2pm on 27th May 2021. The Applicant attended. The Respondent did not attend and was not represented. The Applicant sought a payment order in the sum claimed in her Application, of £764.00. She stated that she was now receiving some rent through the Respondent’s award of Universal Credit and that the current balance of rent arrears owing is £1231.52. She stated that she may lodge a further Application for another payment order in respect of updated rent arrears and interest, together with an Application for an Eviction order, after a Notice, which she served on the Respondent in January 2021, expires on 13th July 2021. The Applicant submitted that as the Respondent had been effectively served with all papers in respect of the Application for an order for payment of the sum of £764.00, and had not lodged any representations with the Tribunal, nor attended at the CMD, the payment order sought should be granted.

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, as well as the submission made by her today, and was satisfied that there was an outstanding net balance of rent arrears due of £764.00, at the date of

lodging of the Application, and that it was reasonable to grant an order for payment by the Respondent to the Applicant in that amount.

Decision

8. Accordingly, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of £764.00.

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 May 2021

Legal Member

Date