



**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/19/2805**

**Re: Property at 2 Etive Place, Irvine, Ayrshire, KA12 9LX (“the Property”)**

**Parties:**

**Steven Easton Limited, 2 Newfield Drive, Dundonald, Ayrshire, KA2 9EW (“the Applicant”)**

**Ms Jacqueline Little, 2 Etive Place, Irvine, Ayrshire, KA12 9LX (“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 6<sup>th</sup> 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 sought in its application payment of arrears in rental payments of £5,773.50 as at the date of the application.

The Applicant provided with its 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 4<sup>th</sup> October 2019, and the Tribunal was provided with the execution of service.

### **Case Management Discussion**

A Case Management Discussion was held on 6<sup>th</sup> November 2019 at Russell House, King Street, Ayr. The Applicant's Steven Easton and Amy Farrell appeared, and the Applicant 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.

Mr Easton provided the Tribunal with a further updated rent arrears statement to today's date confirming that rent arrears now total £7,173.50, and invited the Tribunal with reference to the application and papers to grant an order for payment of that amount.

Rental of £700.00 per month was payable in advance in terms of clause 7 of the private residential tenancy agreement, and the monthly rent has never been paid in full on any month since the commencement of the tenancy.

The Tribunal explained that it considered that it could not properly grant an order today against the Respondent in her absence for a sum which is significantly more than that sought in the application form.

The Tribunal explained that the Applicant could either seek an order for the sum sought in the application and thereafter bring a further application for further sums of rental which were outstanding, or alternatively, the Applicant was allowed to request an adjournment of the Case Management Discussion in order to allow it to amend its application in terms of Rules 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended to the greater sum which it is now seeking.

In terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, a request to amend the application must be intimated to the Tribunal and to the Respondent at least 14 days prior to a Case Management Discussion.

Mr Easton, after considering matters, invited the Tribunal to make an order for payment of the sum of £5,773.50 today. He indicated that in due course the Applicant might give consideration to making a further application to the Tribunal in respect of the further rental arrears accrued since this application was submitted.

## 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 Mr Easton, and was satisfied that these disclosed an outstanding balance of rent arrears as at the date of submission of this application of the sum sought of £5,773.50.

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

## Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £5,773.50.

## 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.**

Neil Kinnear

---

**Legal Member/Chair**

06/11/19  

---

**Date**