



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section under Section 16 of the  
Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/20/0997**

**Re: Property at Flat 15, 2B Sandpiper Drive, Newhaven, Edinburgh, EH6 4UQ  
("the Property")**

**Parties:**

**Western Harbour NHT LLP, c/o Rettie and Co, 4 Jamaica Street, Edinburgh, EH3  
6HH ("the Applicant")**

**Ms Kelly Given, Flat 15, 2B Sandpiper Drive, Newhaven, Edinburgh, EH6 4UQ  
("the Respondent")**

**Tribunal Member:**

**Helen Forbes (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that an order for payment should be granted in favour of  
the Applicant in the sum of £7453.92 with interest thereon at 5% above the Bank  
of England base rate**

**Background**

1. This is an application dated 23<sup>rd</sup> March 2020, made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended ("the Rules"). The Applicant is seeking an order for payment in respect of arrears arising from a private residential tenancy between the parties that commenced on 8th August 2019. The Applicant's representative lodged a copy of the tenancy agreement, together with a rent statement. The rent is £621.16 per month.
2. By email dated 14<sup>th</sup> May 2020, the Applicant's representative lodged an application to amend the sum sought from £3726.96 to £4929.28, with interest thereon.

3. By email dated 4<sup>th</sup> August 2020, the Applicant's representative lodged an application to amend the sum sought from £4929.28 to £6832.76.
4. A Case Management Discussion ("CMD") took place by teleconference call on 18<sup>th</sup> August 2020. The Applicant was represented by Ms Matheson. The Respondent was in attendance. The Respondent agreed that the sum sought was correct and due. The Tribunal granted the applications for amendment of the sum sought. The CMD was continued to be heard with another case between the parties – FTS/HPC/EV/20/0996.
5. By letter dated 24<sup>th</sup> August 2020, which was provided to parties by email on that date, parties were notified that a CMD had been set down for 15<sup>th</sup> September 2020.
6. By email dated 1<sup>st</sup> September 2020, the Applicant's representative lodged an application to amend the sum sought from £6832.76 to £7453.92.
7. At 9.45 a.m. on 15<sup>th</sup> September 2020 an email was received by the Housing and Property Chamber from the Respondent's email address written by the Respondent's mother requesting that proceedings be delayed for a very short period due to the Respondent being unwell and having a power cut and no access to a telephone. The reason stated for the delay was 'to allow her to get stronger'.

### **Case Management Discussion**

8. A CMD took place by teleconference call on 15<sup>th</sup> September 2020. The Applicant was represented by Ms Matheson. The Respondent was not in attendance.
9. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD, together with details on joining the telephone conference, by email dated 24<sup>th</sup> August 2020. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant's representative and the material before the Tribunal.
10. Ms Matheson opposed the request for postponement made on behalf of the Respondent. Neither the Applicant nor their representative have had any contact from the Respondent. The arrears are rising.
11. The Tribunal considered the request for a postponement. The Tribunal did not grant the request for a postponement as no evidence was produced of any fact or matter relied on in support of the application, as required by Rule 28. Furthermore, the Tribunal noted that the arrears were not in dispute.

12. Ms Matheson moved for an order to be granted in the sum of £7,453.92 with interest thereon at the rate of 5% above the Bank of England base rate, as provided for in clause 36 of the tenancy agreement between the parties.

### **Findings in Fact**

13.

- (i) The parties entered into a private residential tenancy agreement in respect of the Property that commenced on 8th August 2019.
- (ii) The rent was £621.16 per month.
- (iii) The Respondent has failed to make payment of rent lawfully due in the sum of £7,453.92.
- (iv) The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement.

### **Reasons for Decision**

14. The Respondent has failed to make payment of rent lawfully due in terms of the tenancy agreement. The Applicant is entitled to recover the rent lawfully due.

### **Decision**

15. An order for payment is granted in favour of the Applicant in the sum of £7,453.92 with interest thereon at the rate of 5% above the Bank of England base rate.

### **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.**

Helen Forbes

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**Legal Member/Chair**

**15<sup>th</sup> September 2020**  
**Date**