



**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/19/1693**

**Re: Property at Flat 3-1 37 Virginia Street, Glasgow, G1 1TS (“the Property”)**

**Parties:**

**David Innes, care of Glasgow Property Letting Ltd, 1A Undercliff Road, Wemyss Bay, PA18 6AQ (“the Applicant”)**

**Mr Abdulmalik Damisa Muhibdeed, Flat 3-1 37 Virginia Street, Glasgow, G1 1TS (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member)**

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

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

**Background**

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £2325 to the Applicant in relation to non payment of rent.
2. The application contained:-
  - a copy of the tenancy agreement, and
  - rent account statement.

3. The Applicant appeared together with his wife, Janet Innes and his representatives, Colin McMillan and Michelle O'Donnell from Glasgow Property Letting Limited. There was no appearance by the Respondent.
4. Notice of the Hearing had been served on the Respondent by sheriff officers on 31 July 2019. As I was satisfied that the Respondent had been served with notice of today's hearing, I was prepared to proceed with today's hearing in his absence.

#### Hearing

5. The Applicant referred me to the papers which had been lodged in support of the application, including the tenancy agreement, and rent account statement.
6. The Applicant advised that when the Respondent moved in he paid 6 months rent in advance. He advised that the Respondent has not made any further payments since that date. He advised that the Respondent is aware that there are arrears of rent. He has been asked to pay the rent and the arrears, however he makes various excuses as to why he cannot pay, for example that he or his family do not have the money. He continues to reside in the property. The Applicant advised that he has now commenced eviction proceedings and lodged an application with the tribunal seeking to recover the property. The Applicant advised that the arrears now total £4650.

#### Findings in Fact

7. The Tribunal found the following facts to be established:
8. A tenancy agreement was entered into between the Applicant and the Respondent for the Property and exists between the parties. It was entered into on 1 October 2018.
9. Clause 8 in the tenancy agreement provides that monthly rent is £775 and the rent payment date is 1<sup>st</sup> of each month. Clause 8 of the tenancy agreement provides that monthly rent is due in advance.
10. That the rental statement showed amounts due each month, amounts received, and rent outstanding.
11. That the rental statement showed no rent payments being made for the months of April, May and June 2019.
12. That the rental statement showed total rent arrears outstanding as at 1 June 2019 being £2325
13. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

#### Reasons for Decision

14. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies.
15. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
16. There was no response or appearance from the Respondent but he had been notified of today's hearing.
17. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was submitted a rental statement showing the arrears due up to and including June 2019 and additional information provided today by the Applicant was that there had been no further payments towards the rent arrears and the arrears had in fact increased. The sum sought was therefore still outstanding.
18. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued for.

#### Decision

I grant an order in favour of the Applicant for TWO THOUSAND THREE HUNDRED AND TWENTY FIVE POUNDS (£2,325.00) STERLING against the Respondent.

#### **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.**

**Melanie Barbour**

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Legal Member/Chair

**5 September 2019**

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Date