

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/19/0075**

**Re: Property at 109 West Main Street, Armadale, West Lothian, EH48 3JA (“the Property”)**

**Parties:**

**Mr Walter Hutton, CO CP Property, 15 Hardengreen Business Centre, Eskbank, Dalkeith, EH22 3NX (“the Applicant”)**

**Ms Rachel Johnston, 109 West Main Street, Armadale, West Lothian, EH48 3JA (“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 9<sup>th</sup> January 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 his application payment of arrears in rental payments of £1,665.00 as at the date of the application, but the application goes on to narrate that this figure will increase to £2,215.00 on 28<sup>th</sup> February 2019 and will continue to increase by a further £550.00 each month thereafter.

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

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 29<sup>th</sup> March 2019, and I was provided with the execution of service.

### **Case Management Discussion**

A Case Management Discussion was held on 18<sup>th</sup> April 2019 at Riverside House, 502 Gorgie Road, Edinburgh. The Applicant did not appear, but was represented by Mr Jurgenson and Mr Duffy, letting agents. 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.

I was invited by Mr Jurgenson and Mr Duffy with reference to the application and papers to grant an order for payment of the sum of £3,126.64, which is the amount of rent arrears outstanding as at today's date. They confirmed that no further payments have been received from the Respondent since this application was lodged.

Monthly rent of £550.00 is due to be paid on the 29<sup>th</sup> day of each month in terms of the private residential tenancy agreement. Applying a daily rate calculated at £18.08 produces a figure due as at today's date of £3,126.64.

### **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 rent arrears statement provided, and the submissions made by Mr Jurgenson

and Mr Duffy, and was satisfied that these disclosed an outstanding balance of rent arrears in the sum sought of £3,126.64.

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 £3,126.64.

### **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

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**Legal Member/Chair**

18/04/19

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**Date**