



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

Chamber Ref: FTS/HPC/CV/22/3554

**Re: Property at 7 Methven Terrace, Lasswade, Midlothian, EH18 1DE (“the
Property”)**

Parties:

**Ms Gillian Burton, 100 Auld Coal Road, Bonnyrigg, EH19 3WH (“the
Applicant”)**

**Mr Ross Brand, Ms Catriona Mitchell, 7 Methven Terrace, Lasswade,
Midlothian, EH18 1DE (“the Respondent”)**

Tribunal Members:

George Clark (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a
Hearing and made an Order for Payment by the respondent to the Applicant of
the sum of £7,359.68. The request for interest on the principal sum was
refused.**

Background

By application, dated 28 September 2022, the Applicant sought an Order for
Payment in respect of unpaid rent that had become lawfully due by the Respondent
to the Applicant. The sum sought was £5,672.70. The Applicant also sought interest
on that sum at the rate of 8% per annum from the date that the rent became due until
payment is made.

The application was accompanied by a copy of a Private Residential Tenancy
Agreement between the Parties commencing on 14 September 2021 at a rent of
£1,050 per month and a Rent Statement showing arrears as at 8 November 2022 of
£5,672.70. The Tenancy Agreement contains a provision that interest may be

charged by the Landlord at 8% per year from the date on which the rent is due until payment is made.

On 25 November 2022, the Tribunal advised the parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 16 December 2022. The Respondent did not make any written representations to the Tribunal.

On 9 January 2023, the Applicant's solicitors provided the Tribunal with a copy of an email sent by the Applicant to the Respondents on 8 January 2023, advising them that the arrears were now £7,359.68.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the afternoon of 11 January 2023. The Applicant was represented by Mr John McKeown of Jackson Boyd Lawyers, Glasgow. The Respondent were both present.

The Respondents told the Tribunal that they had received the Applicant's email of 8 January 2023 and that they accepted that the sum sought was due. They pointed out that the rent had only fallen into arrears following on the death of their daughter, as a result of which Miss Mitchell had not returned to work until September 2022 and Mr Brand, who is self-employed had also had to take a period off work.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

The Tribunal was satisfied that the sum sought, as amended to £7,359.68, had become lawfully due by the Respondent to the Applicant and that an Order for Payment should, therefore, be made.

The Tribunal noted that the Tenancy Agreement contains a provision that interest may be charged by the Landlord at 8% per year from the date on which the rent is due until payment is made. The Tribunal also noted, however, that this provision was permissive and the application of interest was not automatic. The Applicant had not during the currency of the tenancy, chosen the option to apply interest to the outstanding rent, and the Tribunal was unwilling to make an Order for interest on the principal sum due.

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. Clark

Legal Member/Chair

11 January 2023
Date