



**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 and Rule 18 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Regulations 2017.**

**Reference number: FTS/HPC/CV/22/3568**

**Re: Property at Flat 0/1, 92 Gallowhill Road, Paisley, PA3 4TY (“the Property”)**

**The Parties:**

**Mr Graham Smith, 8 Paddocks Close, Nottingham, NG16 6JR (“the Applicant”)**

**Ms Chantelle Coll, 26 Netherhill Road, Paisley, PA3 4RQ (“the Respondent”)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) determined:**

- 1. To allow the applicant’s amendment of the application to reduce the sum sought to £5950.**
- 2. That the respondent pay to the applicant the sum of Five thousand nine hundred and fifty pounds (£5950) being arrears of rent under the tenancy agreement between the parties.**

**Background:**

- 1. By application dated 28 September 2022 the applicant applied to the First-tier Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 for, inter alia, an order for payment in respect of arrears of rent.**
- 2. The application was accompanied by a copy of the tenancy agreement; rent statement to July 2021 showing arrears of rent amounting to £10625; statement of cost of repairs to damage left by respondent.**
- 3. A Case Management Discussion (CMD) was held on 27 January 2023 at which the applicant’s solicitor appeared. By email dated 26 January 2023 the respondent advised that she was unable to attend the CMD due to childcare issues. The CMD proceeded in her absence and a Note dated 31 January 2023 was issued along**

with a Direction requiring the parties to produce certain evidence to the full hearing which was scheduled for 25 April 2023.

4. In her email of 26 January 2023, the respondent accepted that she was due to pay £5950 as arrears of rent up to July 2020 when she vacated the property. She disputed that she had remained in occupation until the date claimed by the applicant, namely July 2021. She also did not agree with the damages claimed.
5. By email dated 17 February 2023 the applicant's solicitor sought to amend the application in accordance with Rule 13 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Regulations 2017 so as to reduce the sum sought as arrears of rent to £5950 which was the amount accepted by the respondent as being due.
6. The email was copied over to the respondent in terms of Rule 13(3).
7. In the email of 17 February 2023, the applicant's solicitor submitted that under Rule 18, if the tribunal allowed the amendment, it could make a decision without a hearing on the basis that in view of the respondent's acceptance that she was due to pay that sum in arrears, there were accordingly no facts in dispute by the parties.

#### **Reasons for Decision:**

8. The tribunal agreed to allow the amendment which was to the effect of reducing the sum sought to that which was accepted by the respondent as being due. This resulted in no prejudice to the respondent.
9. There remained to be no matters of fact in dispute by the parties.
10. Rule 18 provides as follows:

#### ***Power to determine the proceedings without a hearing***

*18.(1) Subject to paragraph (2), the First-tier Tribunal—*

*(a) may make a decision without a hearing if the First-tier Tribunal considers that—*

- (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and*
- (ii) to do so will not be contrary to the interests of the parties; and*

*(b) must make a decision without a hearing where the decision relates to—*

- (i) correcting; or*
- (ii) reviewing on a point of law,*

*a decision made by the First-tier Tribunal.*

*(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.*

11. The email was copied to the respondent and no representations have been made by her in response to the application to amend which require to be considered in terms of section 18(2).
12. In exercise of its power under section 18, and in the absence of any representations from the respondent beyond her email of 26 January 2023, in which she accepted liability for the sum now sought, the tribunal considers that there remain no matters in dispute and that an Order in the sum of £5950 should be granted in favour of the applicant.

### **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.**

David Preston

9 March 2023