



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71 Private Housing Tenancies
(Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/22/4412

Re: Property at 24 Sime Place, Galashiels, Selkirkshire, TD1 1ST (“the Property”)

Parties:

**Waukrigg Development Company LTD, 21 Market Street, Galashiels,
Selkirkshire, TD1 3AD (“the Applicant”)**

**Mr William Derek Chapman, 24 Sime Place, Galashiels, Selkirkshire, TD1 1ST
 (“the Respondent”)**

Tribunal Member:

Josephine Bonnar (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 for the sum of £7170.00 should
be granted against the Respondent in favour of the Applicant.**

Background

1. The Applicant seeks a payment order in relation to unpaid rent and late payment charges. A tenancy agreement and rent statement were lodged with the application.
2. A copy of the application was served on the Respondent by Sheriff Officer. Both parties were advised that a case management discussion (“CMD”) would take place by telephone conference call on 13 March 2023 at 11.30am and that they were required to participate.
3. The CMD took place on 13 March 2023. Neither party participated. The Legal Member determined that the CMD should be continued to a later date and issued a direction to the Applicant requiring them to confirm if the application was to proceed or be withdrawn. The Applicant’s representative responded and

confirmed that the application was to proceed. She advised that the date of the CMD had been missed due to an absence from work following a bereavement.

4. The parties were notified that a further CMD would take place on 1 June 2023 at 10am by telephone conference call. Prior to the CMD the Tribunal were notified that a new representative had been instructed. An updated rent statement was also lodged which included a charge for late payment fees of £1170 for the period 1 October 2022 to 23 May 2023.
5. The CMD took place on 1 June 2023 at 10am. The Applicant was represented by Mr Robertson, solicitor. The Respondent did not participate and was not represented.

Case Management Discussion

6. Mr Robertson told the Tribunal that the Respondent remains in occupation of the property but has failed to pay rent since October 2022. No reason has been provided for non-payment and it is understood that the Respondent has the resources to pay the rent. He referred to the updated rent statement and confirmed that an order for payment is sought for the unpaid rent of £6000 and late payment charges of £1170.

Findings in Fact

7. The Applicant is the owner and landlord of the property.
8. The Respondent is the tenant of the property in terms of a private residential tenancy.
9. The Respondent is due to pay rent at the rate of £750 per month.
10. The Respondent has failed to pay rent since October 2022.
11. The Respondent owes the sum of £6000 in unpaid rent to the Applicant.
12. The tenancy agreement contains a provision which stipulates that the Respondent will be charged £5 per day for late payment of rent.

Reasons for Decision

13. The Respondent did not participate in either CMD or advise the Tribunal if the payment order is disputed. From the information provided at the CMD by the Applicant's solicitor, the documents lodged with the application and the updated rent statement, the Tribunal is satisfied that the Respondent has incurred rent

arrears of £6000 and that the Applicant is entitled to an order for payment for this sum.

14. The tenancy agreement lodged with the application contains a provision which states “ If rent is paid late, a late rent fee will be charged at £5.00 per day for each day the rent remains unpaid”. The Legal Member is satisfied that the parties have contractually agreed that a late payment fee can be charged at this rate and that the Respondent has failed to pay any rent since October 2022.
15. The Legal Member is satisfied that the Applicant is entitled to a payment order for £1170 in addition to the unpaid rent of £6000.

Decision

16. The Tribunal determines that an order for a payment order should be granted 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.

Josephine Bonnar

Josephine Bonnar, Legal Member

1 June 2023