



**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: CV/22/3553**

**Re: Property at The Bungalow, Addinston, Lauder, Berwickshire, TD2 6QZ (“the Property”)**

**Parties:**

**Mrs Kirsteen McKerrow, Addinston, Lauder, Berwickshire, TD2 6QZ (“the Applicant”)**

**Mr Evan Dewar, residing at The Bungalow, Addinston, Lauder, Berwickshire, TD2 6QZ; and Mr Aiden Dewar whose whereabouts are UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Ewan Miller (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents were in rent arrears for the sum of £2,283.15p and accordingly granted the Applicant an Order for Payment against the Respondent in that amount, together with interest at the rate of 4% from the date of the Order until payment**

**Background**

The Applicant was the owner of the Property and had granted a private residential tenancy to the Respondents, who were brothers. The Property was located on the Applicant’s farm, where she herself resided. The tenancy was granted to the Respondent on 3 April 2019 at a monthly rental of £650. The Applicant alleged that there had been a long history of arrears stemming back to almost the beginning of the tenancy. Repeated promises had been made to address the rent arrears, the Applicant alleged, but the arrears persisted. The Applicant therefore sought an Order for Payment for the arrears of rental and had applied to the Tribunal for this.

**Case Management Discussion**

A Case Management Discussion (“CMD”) took place by teleconference on 30 May 2023 at 10am before the Tribunal Members. The Applicant was not present but was represented by Ms Kirstie Donnelly of T C Young, Solicitors, Glasgow. The Respondent was neither present nor represented. The Tribunal was satisfied that the details of the CMD had been served on Evan Dewar by Sheriff Officer and by advertisement on the Tribunal website in respect of Aiden Dewar. The Tribunal was satisfied that it was appropriate for it to make a decision.

The Tribunal had before it the following documentation:-

- A Land Certificate evidencing the Applicant’s ownership of the Property
- Application form to the Tribunal seeking an eviction order
- A copy of the lease between the parties
- A copy of the Notice to Leave served on the Respondent
- S11 homelessness form and intimation to the relevant local authority
- A rent arrears statement
- Copy correspondence between the parties
- Pre-action protocol correspondence issued by the Applicant to the Respondent

### **Findings in Fact and Law**

The Tribunal found the following:-

- The Applicant was the owner of the Property
- The Applicant had granted a private residential tenancy to the Respondent commencing 3 April 2019
- The monthly rental was £650 per month
- That at the date of the CMD there were arrears of £2283.15p

### **Reasons for Decision**

The Tribunal based its decision on the papers before it and the evidence led by Ms Donnelly for the Applicant at the hearing.

The Tribunal noted the terms of the rent arrears statement submitted by the Applicant. This showed that the tenancy commenced on 3 April 2019 and within a few months there were periodic arrears of rental. From 3 October 2020 until the CDM there had been continual rent arrears.

The original CMD had been postponed as some grant funding had been available from the local authority to assist tenants such as the Respondent. At the time of the application in September 2022 there had been arrears of £2270.49. By the time of the hearing the grant funding and some housing benefit payments had managed to hold the arrears steady. However, at the date of the hearing the Applicant’s solicitor advised that the sum of £2283.15 was still outstanding.

There was no information or evidence from the Respondent to dispute the Applicant's position and the Tribunal had no reason to doubt the Applicant. There was correspondence from the Respondent in the case papers which acknowledged the arrears.

On the basis of the papers before it the Tribunal was satisfied that it was appropriate to grant an Order for Payment against the Respondent in favour of the Applicant in the sum of £2,283.15 together with interest at the rate of 4% running from the date of the hearing (the Tribunal exercising its discretion under Chamber Rule 41A in respect of the interest)

### **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.**



**Ewan Miller  
Legal Member/Chair**

**12 June 2023  
Date**