



**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/22/1185**

**Re: Property at Flat 7 3-1 63 Croftside Avenue, Croftfoot, Glasgow, G44 5LA (“the Property”)**

**Parties:**

**Mrs Meredith Muirhead, 221 Old Castle Road, Glasgow, G44 5EZ (“the Applicant”)**

**Mr John Bell, 5 Bute Road, Glasgow, G73 5JH (“the Respondent”)**

**Tribunal Members:**

**Yvonne McKenna (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 in the sum of £4901.90 should be granted against the Respondent in favour of the Applicant together with interest at the rate of 3 % per annum.**

**Background**

1. This is an application in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £4901.90 in terms of s71 of the Private Housing (Tenancies) (Scotland) Act 2016.

2. The Tribunal had before it the following documents:

a) Application dated 26 April 2022.

b) Tenancy agreement with a commencement date of 2 May 2019.

d) Rent Statement dated 27 January 2022.

3. A CMD was set for 22 July 2022 at 10am.

4. On 21 May 2022 all parties were written to with the date for the CMD.

5. Service was effected on the Respondent by Sheriff Officers on 24 May 2022.

### **The Case Management Discussion (CMD)**

6. The Case Management Discussion (CMD) took place at 10am on 22 July 2022 by teleconferencing. The Applicant dialled in and was represented by her solicitor Mrs Anji McMullen. The Respondent did not participate.

7. The Respondent had not been in contact with the Tribunal since papers were served on him and he had not lodged any written representations with the Tribunal.

8. The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (the Regulations).

9. Mrs McMullen invited the Tribunal to grant the Order for Payment in the sum set out in her application and sought interest. She did not seek expenses. She relied on the rent account and the tenancy agreement in respect of which the Respondent was Guarantor.

10. Ms McMullen said that there had been no contact with the Respondent since the application was lodged with the Tribunal and no further sums have been paid.

### **Findings in Fact**

11. The Applicant is the owner and the landlord of the Property.

12. The Applicant entered into a Private Residential Tenancy Agreement (PRT) with Miss Ashley Bell the tenant.

13. The PRT had a start date of 2 May 2019.

14. The Respondent is the Guarantor in terms of Clause 38 of the PRT.

15. The Respondent has signed the PRT as Guarantor.

16. Clause 38 of the PRT states “The Guarantor guarantees all payments or rent, any other obligations under this Agreement, and any other payments due to the Landlord which the Tenant is required to pay under this Agreement, and liability continues in respect of any payment due but not paid even after the termination of this Agreement or any alteration to this Agreement.”

17. In terms of the PRT, the tenant was due to pay rent at the rate of £550 per month.

18. There are rent arrears of £4901.90

19. As Guarantor the Respondent is liable for the sums of unpaid rent due by the tenant.

### **Reasons for Decision**

20. The application was submitted with a PRT and a rent statement. In terms of the PRT, rent is due to be paid at the rate of £550 per month. The Tribunal is satisfied that the sum due in respect of outstanding rent is £4901.90.

21. The Respondent as Guarantor and in terms of Clause 38 of the PRT is responsible for payment of undue rent. The Applicant is entitled to a Payment Order for the sum sought.

22. The PRT does not set out any interest rate in relation to unpaid sums due.

23. In terms of Rule 41A of the Regulations the Tribunal may order interest to be paid. In the circumstances it seems just to the Tribunal to award interest at a rate representing the investment or borrowing rate of lending banks for short term loans which is currently approximately 3 %.

### **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.**

**Y. M**

**Yvonne McKenna**

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**Legal Member/Chair**

**22<sup>nd</sup> July 2022**

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**Date**

