



**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/22/2906**

**Re: Property at 18C Burnbank Road, Ayr, KA7 3QN (“the Property”)**

**Parties:**

**Mrs Annette Haran, 20 Carrick Park, Ayr, KA7 2SL (“the Applicant”)**

**Ms Isla Summers, 18C Burnbank Road, Ayr, KA7 3QN (“the Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal Member) and Linda Reid (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**Background**

This was an application for a payment order dated 15<sup>th</sup> August 2022 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant originally sought in her application an order for payment of arrears in rental payments of £1,575.00 in relation to the Property from the Respondent, and provided with her application copies of the private residential tenancy agreement and rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 1<sup>st</sup> February 2023, and the Tribunal was provided with the execution of service.

On 27<sup>th</sup> February 2023 the Applicant provided an updated rent arrears statement disclosing arrears to that date of £3,300.00.

### **Case Management Discussion**

A Case Management Discussion was held at 10:00 on 7<sup>th</sup> March 2023 by Tele-Conference. The Applicant did not participate, but was represented by Ms Hunter, letting agent. The Respondent did not participate, nor was she represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

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.

Ms Hunter referred to the updated rent arrears statement, and confirmed that arrears of rent to the date hereof remained £3,300.00.

Ms Hunter requested to amend the sum claimed in the application to that figure in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, and sought the Tribunal's permission to shorten the 14 day period for intimation of the amendment upon the Respondent in advance of today's Case Management Discussion in terms of Rule 16A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal considered in all the circumstances that it would consent to the amendment, and shortened the 14 day period of intimation on the Respondent to 8 days.

The Tribunal was then invited by Ms Hunter with reference to the application and papers to grant an order for payment of the sum of £3,300.00.

### **Statement of Reasons**

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

#### **"First-tier Tribunal's jurisdiction**

- (1) In relation to civil proceedings arising from a private residential tenancy—  
(a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),

- (b) a sheriff does not have competence or jurisdiction.  
(2) For the purposes of subsection (1), civil proceedings are any proceedings other than—  
(a) the prosecution of a criminal offence,  
(b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the rent arrears information provided, and the submissions made by Ms Hunter, and was satisfied that these disclosed an outstanding balance of rent arrears due of £3,300.00. Rent of £475.00 per month was due in terms of clause 8 of the tenancy agreement. Accordingly, the Tribunal made an order for payment of that sum.

### **Decision**

In these circumstances, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of £3,300.00.

### **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.**

# N Kinnear

07/03/2023

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Legal Member/Chair

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Date