



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71 (1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/21/0682

Re: Property at Ciaran Cottage, Fearan, Perthshire, PH15 2PG (“the Property”)

Parties:

Mr Billy McIntyre, 16 Rosehall Crescent, Uddingston, Glasgow, G71 7FQ (“the Applicant”)

Miss Racheal Barnes, 14 Denfield Place, Kirkcaldy, Fife, KY1 2BG (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Ahsan Khan (Ordinary Member)

Background

The Applicant seeks a Payment Order against the Respondent in the sum of £4,918.02. Together with the Application, the Applicant has also produced a copy of the tenancy agreement, a rent statement and a further updated rent statement. The Applicant has also lodged an exchange of communications between the parties regarding the subject matter of the Application.

Case Management Discussion

The Application called by way of a conference call at 10 am on 14 June 2021. The case was heard alongside the related Application with reference FTS/HPC/EV/21/0547 which was in respect of an Eviction Order.

The Applicant was personally present on the call. Sheriff Officers had served the Application and information about how to join the conference call on the Respondent on 17 May 2021. There was no appearance by or on behalf of the Respondent. The Sheriff Officers’ certificate of execution of service and covering letter made reference to the

Respondent mentioning her poor mental health to the Sheriff Officers who served the paperwork.

It was also said that the Respondent would be making representations by email but no email representations had ever been received. The Tribunal decided it was fair to proceed in the absence of the Respondent but would keep in mind the issue of the Respondent's mental health in case this became a relevant feature of the case.

The Tribunal heard from the Applicant and even though the Application was unopposed decided to carefully question the Applicant with a view to assessing the substance of the Application.

Mr McKenzie gave an impressive account of himself in respect of his knowledge of the situation and the Tribunal had no reason to doubt his credibility and reliability. There was insufficient evidence to suggest that the Respondent's mental health difficulties precluded her from participating in the Tribunal or that it was a relevant factor in the case.

Having heard from the Applicant and fully explored the issues regarding the Application, the Tribunal made the following findings- in-fact.

Findings in Fact

- I. *The parties entered into a Private Residential Tenancy at the Property which commenced on 26 March 2020;*
- II. *The Applicant was the landlord and the Respondent was the tenant;*
- III. *The contractual monthly rent said to be due is £550.00 per month;*
- IV. *The Applicant received £1,000.00 from the Respondent at the start of the tenancy for the first month's rent and £450.00 which the Applicant assigned as a deposit and which the Applicant advises is registered with an approved deposit protection scheme;*
- V. *The Respondent quickly fell into rent arrears;*
- VI. *The Applicant has only ever made two full months' worth of rental payments and almost immediately began to pay nothing each month;*
- VII. *There was one month in which the DWP appeared to have paid the rent for the Respondent but this was not sustained;*

- VIII. *The Applicant has liaised with the DWP and attempted to assist the Respondent in setting up the regular direct payments but the Respondent has not cooperated;*
- IX. *The Respondent at one point suggested to the Applicant in a text message that if he paid her £1,000.00 then she would leave the Property quickly;*
- X. *The sum claimed in the Application of £4,918.02 is lawfully due as rent arrears by the Respondent to the Applicant but remains unpaid;*
- XI. *As at today's date, there are further sums lawfully due as rent by the Respondent to the Applicant which are not referred to in the current Application before the Tribunal.*

Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and make a Payment Order in the amount of £4,918.02 together with interest on that sum at the rate of 3 per cent per year from today's date until payment.

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.

14 June 2021

Legal Member/Chair

Date