



**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/21/1350**

**Re: Property at Flat 4, 11 Forbes Place, Paisley, PA1 1UT (“the Property”)**

**Parties:**

**Miss Erin Mollie McDonald, Flat 12, 11 Forbes Place, Paisley, PA1 1UT (“the Applicant”)**

**Mr Christopher Hainey, 3/1 63 High Street, Paisley, PA1 2AS (“the Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order in the sum of £3,120 be granted in favour of the Applicant against the Respondent.**

- Background

By application dated 23 March 2021 (the Application), the Applicant sought a Payment Order against the Respondent relative to rent arrears for the Property. With the Application, the Applicant lodged various supporting documents including a copy lease, a statement of the arrears and bank statements.

- The Hearing

A Case Management Discussion (CMD) was fixed to be heard by way of conference call on 9 December 2021. A Ms Pollock of McNairs and Wilson Solicitors appeared on behalf of the Applicant, who was also in attendance. There was no appearance or representation for the Respondent. Notwithstanding, the Tribunal was satisfied that proper intimation had been made of the Application to the Respondent and that he therefore knew about the CMD and his requirement to attend. That being the case, the Tribunal decided to deal with matters in his absence.

Ms Pollock confirmed that the arrears were £3,120 and that the Respondent had vacated the Property. In relation to the claim for interest, Ms Pollock confirmed this had been made on the basis of the "Judicial Rate of Interest". The Administration of Justice (Scotland) Act 1972 Section 4 as amended by Act of Sederunt (Interest in Sheriff Court Decrees and Extracts) 1993 covers the payment of judicial interest in the sheriff court. These legislative provisions have not been extended to the Tribunal, the payment of a judicial rate of 8% has no statutory basis for the Tribunal and the Tribunal is therefore unable to make an award based on such provisions. Ms Pollock indicated that there were no contractual provisions she wished to refer to and she did not want to make submissions based on interest on some other basis. Accordingly, she withdrew the claim for interest.

- Findings in Fact

- 1) The Applicant entered into a lease with the Respondent for the Property which commenced on or around 1 March 2020.
- 2) The rent due under the lease was £520 per calendar month.
- 3) The Respondent vacated the Property on or around 7 June 2021 leaving arrears of rent amounting to £3,120.00.
- 4) The Applicant is entitled to a Payment Order against the Respondent in the sum of £3,120.00.

- Reasons for Decision

The Respondent having failed to pay the rent due under the tenancy for the Property and has accrued arrears of rent in the sum of £3,120.00.

- Decision

A Payment Order in the sum of £3,120.00 was granted in favour of the Applicant 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.**

# Rory Cowan

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Legal Member/Chair

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Date 9 December 2021