

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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

**Chamber Ref: FTS/HPC/CV/21/1641**

**Re: Property at 20 Stroma Terrace, Aberdeen, AB16 6FF (“the Property”)**

**Parties:**

**Ms Denise Fyvie, 12 Colonsay Crescent, Aberdeen, AB16 6FA (“the Applicant”), and**

**Laurie & Co Solicitors LLP, 17 Victoria Street, Aberdeen, AB10 1PU (“the Applicant’s Representative”) and**

**Mr Hafiz Haris Iftikhar, 119-121 Barr Street, Birmingham, B19 3EH (“the Respondent”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**A Lamont- Ordinary Member**

**Decision in absence of the Respondent**

1. The Tribunal, having considered the parties’ evidence and submissions, makes an order for payment of the sum of £3538.46 to the Applicant by the Respondent.

**Background**

2. This is an Application for a payment order in respect of rent arrears 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 Rules of Procedure (“the 2017 Rules”).

## **Case Management Discussion and Adjourned Evidential Hearing**

3. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call on 21<sup>st</sup> September 2021. An evidential Hearing proceeded remotely on 26<sup>th</sup> October 2021. Reference is made to the Notes on the CMD and the Notes on the Hearing.

## **Evidence and Submissions**

4. A Hearing proceeded remotely by telephone conference call on 30<sup>th</sup> November 2021. The Applicant’s Representative’s Ms L Fyffe attended. The Respondent did not attend and was not represented. The Tribunal checked with their office and noted that the Respondent was sent a copy of the Note on the CMD, of 26<sup>th</sup> October 2021, by email on 28<sup>th</sup> October 2021. He was sent the Hearing Notification letter by email on 29<sup>th</sup> October 2021. The Tribunal’s office’s postal copy of the Hearing Notification letter, sent to the Respondent’s new address in Birmingham, provided by him in his email dated 25<sup>th</sup> October 2021, was received and signed for on 1<sup>st</sup> November 2021.
5. Ms Fyffe submitted that the Respondent had asked for the Hearing on 26<sup>th</sup> October 2021 to be adjourned, and this had been done, and that he had been correctly notified of today’s Hearing and had not lodged any further representations or documentation with the Tribunal’s office in advance of the Hearing. She stated that as the Respondent had not intimated any reasons/basis for non-payment of rent, and not attended at the Hearing, it was appropriate that an order for payment of rent arrears in the sum of £3538.46 should be granted. Ms Fyffe explained that the rent arrears sought when the Application was lodged, on 8<sup>th</sup> July 2021, were in the sum of £2200.00, and that monthly rent amounts of £600.00, due on 14<sup>th</sup> July 2021 and 14<sup>th</sup> August 2021, were unpaid as was rent due for the period of one week from 14<sup>th</sup> September 2021 to the date that the Tribunal granted an eviction order on 21<sup>st</sup> September 2021, in the amount of £138.46.

## **Findings in Fact and Law and Reasons for Decision**

6. Section 71 of The Private Housing (Tenancies) Act 2016 provides as follows:

- (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.

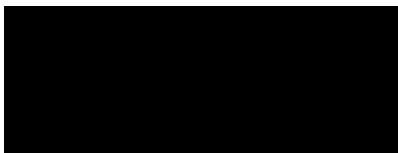
7. Therefore, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rent against a tenant (such as the Respondent) in respect of a private residential tenancy (“PRT”) such as this.
8. The Respondent was given the opportunity of lodging representations and/or documentation in respect of the Application and has not done so. He was correctly notified of the Hearing but did not attend and was not represented. He has not provided evidence, and/or made any submission, opposing the order sought. Having considered all of the available evidence and Ms Fyffe’s submissions the Tribunal found on a balance of probabilities, that the Respondent is in arrears of rent, to the date of the eviction order, of £3538.46. The Tribunal found that Ms Fyffe’s explanation regarding the calculation of the outstanding rent due is consistent with the provisions of the parties’ PRT, as well as the terms of the Application, and that there has been no contradiction of the calculation by the Respondent. The Tribunal further found that, in terms of the parties PRT the Applicant is legally entitled to be paid the said sum of £3538.46. The parties PRT provides that the Respondent is due to pay rent to the Applicant and the Respondent is in breach of his obligation to the Applicant in this regard. It is therefore just that an order for payment by the Respondent to the Applicant, in the sum of £3538.46, is granted.

## **Decision**

9. Accordingly, the Tribunal makes an order for payment by the Respondent to the Applicant of the sum of £3538.46.

## **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.**



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**Legal Member**

**30<sup>th</sup> November 2021**

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**Date**