



**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/21/2291**

**Re: Property at 12 Tannadice Court, Dundee, DD3 7QB (“the Property”)**

**Parties:**

**Ms Pauline Robertson, 7 Noble Avenue, Inverggowrie, DD2 5AL (“the Applicant”)**

**Mr Darren Whyte, 20A Leng Street, Dundee, DD3 6QJ (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (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 be made against the respondent in the sum of Five Thousand Pounds (£5,000)**

**INTRODUCTION**

This is an application under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Service of the application and intimation of the Case Management Discussion (CMD) was made upon the respondent by sheriff officer delivery on 19 October 2021.

The CMD took place by teleconference at 2.00 pm on 25 November 2021.

The applicant was represented by Mrs Tanya Royle of Messrs Gilson Gray LLP. The respondent failed to participate in the hearing. There was no known barrier to him doing so.

## FINDINGS AND REASONS

The property is 12 Tannadice Court, Dundee DD3 7QB.

The applicant is Ms Pauline Robertson. She is the heritable proprietor of the property and the landlord. The respondent is Mr Darren Whyte.

The parties entered into a Private Residential Tenancy which commenced on 1 March 2020.

The respondent vacated the property on 27 July 2021.

Throughout the duration of the tenancy, the respondent fell into arrears of the contractual rental payments. He paid no rent from October 2020 to the end of the lease. The total rent outstanding as at the end of the lease totalled £5,000.

The application is supported by a detailed rent statement disclosing the sums which remain outstanding. The tribunal found this documentary evidence credible and reliable and attached weight to it.

The applicant is entitled to recover arrears of rent lawfully due under the lease and is entitled to recover the sum of £5,000.

In the written application the applicant also sought to recover additional sums totalling a further £1,375, comprised of the following:

- £505 to replace carpets in five areas of the property.
- £1,100 in respect of the property being completely redecorated.
- £150 for the replacement of two bedside cabinets and a chest of drawers removed by the respondent.
- £120 to replace the broken oven.

Receipts in respect of these additional items had been provided together with photographs. It was identified that there were issues regarding the majority of the receipts produced and that the photographs provided did not clearly demonstrate the applicant's position. The quality of the evidence to support these additional claims was poor. After an adjournment the applicant's representative did not insist upon these additional heads of claim.

The applicant seeks interest on the sums due as assessed by the Tribunal. The Administration of Justice (Scotland) Act 1972, section 4 as amended by the Act of Sederunt (Interest in Sheriff Court Decrees and Extracts) 1993 covers the payment of judicial interest in the Sheriff Court and these provisions have not been extended to the Tribunal. The payment of a judicial rate of 8% has no statutory basis for the Tribunal. A rate more in line with the use value of the money and the loss actually suffered by the applicant corresponding to the investment/borrowing rate which would

be real loss suffered by the applicants can be justified. The current rate borrowing rate for short-term commercial loans is approximately 3% per annum and that is an appropriate rate of interest to be imposed by the Tribunal.

### **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.**

Richard Mill

25 November 2021

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Legal Member/Chair

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Date