



**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/21/2405**

**Re: Property at 83 Wylie Crescent, Cumnock, KA18 1LT (“the Property”)**

**Parties:**

**Mr James Anderson, 1 Sandray Gardens, Glasgow, Newton Mearns, G77 5GX (“the Applicant”)**

**Ms Hayleigh O'Dea, 83 Wylie Crescent, Cumnock, KA18 1LT (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Ahsan Khan (Ordinary Member)**

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for a Payment Order. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

**Decision (in absence)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondent for the sum of £4800 under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.**

**Attendance and Representation**

The Applicant was represented by Matthew Gunn, Gallus Lettings, Clyde Offices, 2<sup>nd</sup> Floor, 48 West George Street, G2 1BP.

The Respondent did not attend the Tribunal and no written representations had been received. Service of the Application had been affected appropriately by Sheriff Officer.

## **Preliminary Matters**

There were no preliminary matters other than the non attendance of the Respondent.

## **Matters Arising**

The Tribunal confirmed with the Applicant's representation that no contact had been made by the Respondent to them in respect of the Application. The most recent contact was a text message last week as the Applicant is seeking contact due to a water leak affecting the property below. He confirmed that no payments had been received to rent since 1<sup>st</sup> December 2020. Rent due as at the lodged rent statement dated 11<sup>th</sup> November 2021 was £4800. The Applicant's representative made oral submissions in support of seeking grant of an order under section 71 of the 2016 for the sum of £4800.

The Applicant's representative said the Respondent was working at the time the tenancy started, was in her mid 30's and had no dependents. He said he was not aware of any other change in circumstances and there had been correspondence sent to the Respondent and to the Benefits agency direct in case there was an entitlement to same but there was no reply to either correspondence. The Applicant therefore sought a payment order.

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

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings by Sheriff Officer and had not challenged same by written representations or attendance.**
- 2. The Applicant sought a Payment Order for the sum of £4800. A rent statement dated 11<sup>th</sup> November 2021 for the property had been lodged. The Respondent under same was in arrears of £4800.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 28<sup>th</sup> September 2020. The Respondent agreed in terms of same to make payment per calendar month of £450 to the Applicant.**
- 5. The Tribunal was satisfied that on 11<sup>th</sup> November 2021 rent arrears for the property due by the Respondent amounted to £4800.**
- 6. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted a payment order against the Respondent for the sum of £4800.**

## **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.**

**K. K**

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**Legal Member/Chair**

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**Date: 21 January 2022**