



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 70(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/21/2454

**Re: Property at 49 Gellymill Street, Macduff, Aberdeenshire, AB44 1UX (“the
Property”)**

Parties:

Mr Matthew Dear, Wassail, West End, John O'Groats, KW1 4YR (“the Applicant”)

**Mrs Karen Cruickshank, 49 Gellymill Street, Macduff, AB44 1UX (“the
Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Linda Reid (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to make an order in the sum of Three thousand five
hundred and sixty three pounds and thirty pence (£3563.30) Sterling**

Background

- 1 By application to the Tribunal the Applicant sought an eviction order against the Respondent in respect of the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). In support of the application the Applicant provided the following documentation:-
 - (i) Private Residential Tenancy Agreement between the parties; and
 - (ii) Rent Statement showing arrears of £3988.30 as at October 2021.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for the

24 February 2022 to take place by teleconference due to the restrictions imposed by the Covid-19 pandemic. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

Case Management Discussions

- 3 The Case Management Discussion took place by teleconference on 24 February 2022. The Applicant was present. The Respondent did not attend. The Tribunal was conscious that the Respondent had received notification of the date and time of the Case Management Discussion and therefore proceeded in her absence.
- 4 The Tribunal proceeded to hear from the Applicant. He explained that the arrears had increased over a period of time, and current balance was £4063.30. The Respondent was in receipt of housing benefit but it did not cover the monthly rent. The Applicant understood the Respondent was in the process of seeking a smaller property with the local council. In response to questions from the Tribunal the Applicant confirmed that the tenancy had commenced in January 2020.

Findings in Fact and Law

- 5 The parties entered into a Private Residential Tenancy Agreement which commenced on 14 January 2020.
- 6 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £500 per calendar month.
- 7 As at the date of the Case Management Discussion arrears in the sum of £3563.30 were outstanding.
- 8 Despite repeated requests the Respondent has refused or delayed to make payment of the rent due.

Reasons for Decision

- 9 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. The Respondent had been given the opportunity to take part in the proceedings through service of the application paperwork but had chosen not to do so. On that basis the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved.
- 10 Based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £3563.30. The Tribunal accepted the evidence of the Applicant that the Respondent had a contractual obligation to make payment of

rent at the rate of £500 per month. There was nothing before the Tribunal to contradict the position put forward by the Applicant in that regard. However the Tribunal noted that, whilst the Applicant sought arrears in the sum of £4063.30, it appeared from the rent statement produced that £500 of that balance had fallen due prior to the commencement of the tenancy in respect of the previous joint tenancy between the Respondent and her sister. The Tribunal could only make an order in respect of arrears that had accrued during the current contractual tenancy between the parties.

- 11 The Tribunal therefore made an order for payment against the Respondent in the sum of £3563.30.

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.

Ruth O'Hare

24 February 2022

Legal Member/Chair

Date