



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

**Chamber Ref: FTS/HPC/CV/21/3122**

**Re: Property at 1/5 Russell Gardens, Edinburgh, EH12 5PG (“the Property”)**

**Parties:**

**SDR Property Company Ltd, 93-101 Gorgie Road, Edinburgh, EH11 1TE (“the Applicant”)**

**Mr Craig Honeyman, 1/5 Russell Gardens, Edinburgh, EH12 5PG (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £23,316 should be granted against the Respondent in favour of the Applicant.**

**Background**

- 1.** The Applicant lodged an application for a payment order in relation to unpaid rent. A copy tenancy agreement and rent statement were lodged in support of the application.
- 2.** A copy of the application was served on the Respondent by Sheriff Officer on 16 February 2022. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 30 March 2022 at 10am by telephone conference call and that they were required to participate. They were provided with a telephone number and passcode.

3. On 24 March 2022, the Applicant's representative lodged an updated rent statement and a request to amend the sum claimed in the application to £23950. On 29 March 2022 the Applicant's representative lodged further documents. The CMD took place at 10am on 30 March 2022. The Applicant was represented by Ms Ridley, solicitor. The Respondent did not participate and was not represented. He did not contact the Tribunal in advance of the CMD.

### **Case Management Discussion**

4. The Legal Member noted that documents had been submitted on 29 March 2022. As these had not been submitted at least 7 days before the CMD, the Legal Member advised that she would not be able to consider these documents. The Legal Member also noted that the updated rent statement and the request to amend the application had been lodged 7 days before the CMD. Ms Ridley confirmed that no further payments have been received. Following discussion, Ms Ridley asked to amend the sum claimed to £23,316 rather than £23,950, as the rent charge due on 20 March 22 was for the period 20 March 2022 to 20 April 2022. She confirmed that a payment order was sought for £23,316, being the sum due on 30 March 2022.
5. Ms Ridely advised the Legal Member that the last payment made by the Respondent to the rent account was in February 2020. There have been other issues. A right of entry application was submitted when the Respondent refused to allow access to the property for a repair to be carried out to address a leak which affected the property underneath. As a result of the application, the Respondent provided access and the matter was resolved. However, there has been further water ingress into the same property which is currently uninhabitable as a result. A further right of entry application has been submitted. Neighbours indicated that the Respondent had moved out of the property. However, he emailed Ms Ridely following service of the right of entry application. He said that he is still residing at the property and is not prepared to provide access. The Respondent has also been served with a Notice to leave and the Applicant intends to lodge an application for an eviction order when the notice period expires. Ms Ridely advised the Legal Member that the reasons for non-payment are not known. The Applicant thought that the Respondent was in receipt of universal credit and applied for direct payments. However, this application was rejected by Universal Credit.

### **Findings in Fact**

6. The Applicant is the owner and landlord of the property.
7. The Respondent is the tenant of the property in terms of a private residential tenancy.
8. The Respondent is due to pay rent at the rate of £950 per month.

9. The Respondent owes the sum of £23,316 in unpaid rent to the Applicant.

### **Reasons for Decision**

10. The application was submitted with a private residential tenancy agreement and a rent statement. An updated rent statement was submitted prior to the CMD. In terms of the tenancy agreement, rent is due to be paid at the rate of £950 per month. The Respondent currently owes the sum of £23,316 in unpaid rent. The Legal Member is satisfied that the Applicant is entitled to a payment order for the sum of £23,316.

### **Decision**

11. The Legal Member determines that an order for payment for the sum of £23,316 should be granted in favour of the Applicant.

### **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.**

# **J Bonnar**

**Josephine Bonnar, Legal Member**

**30 March 2022**