

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

Chamber Ref: FTS/HPC/CV/22/4332

Re: Property at 49 Barry Road, Kirkcaldy, KY2 6JD (“the Property”)

Parties:

Mr Mark Connelly, 23 Brownhill View, Wishaw, ML2 9QJ (“the Applicant”)

**Geraldine Carolan, formerly residing at 49 Barry Road, Kirkcaldy, KY2 6JD and
whose present whereabouts are unknown (“the Respondent”)**

Tribunal Members:

James Bauld (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order should be granted for payment in the sum
of Eight thousand, four hundred and fifteen pounds (£8,415.00)**

Background

1. By application dated 5 December 2022 the applicant sought an order under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 12 January 2023 the application was accepted by the tribunal and referred for determination by the tribunal.
3. A Case Management Discussion (CMD) was set to take place on 5 May 2023 and appropriate intimation of that hearing was given to both parties . service on the respondent was effected by way of advertisement on the tribunal website.

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 5 May 2023 via telephone case conference. The applicant was personally present in the telephone case conference and was represented by his letting agent, Ms Gillian Inglis from Belvoir Kirkcaldy, 9 Whytecausway, Kirkcaldy KY1 1XF. The Respondent did not take part.
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
6. The tribunal asked various questions of the applicant and his representative with regard to the application.
7. They confirmed that they wished the order for payment to be made.

Findings in Fact

8. The Applicant is the registered owner of the property.
9. The Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 2 February 2018.
10. The tenancy was a private residential tenancy in terms of the Act.
11. The agreed monthly rental was £765.
12. Arrears had started to accrue in February 2022 and at the date of the lodging of the application arrears amounted to £8,415.00.
13. The amount of arrears at the date of the CMD was £12,240.
14. Appropriate accounting had been provided in respect of the outstanding rent with the application to the tribunal.

Reasons for Decision

15. The tribunal accepted the unchallenged evidence of the applicant regarding the outstanding sums. The tribunal noted that the respondent had failed to engage with both the applicant and with the tribunal despite having ample opportunity to do so.

16. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

The order for payment of the sum of £8,415.00 is granted.

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. Bauld

Legal Member

Date