

**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/22/4429**

**Re: Property at 138A High Street, Arbroath, DD11 1HN (“the Property”)**

**Parties:**

**Mr Richard Lee- Smith, 21 Dalhousie Court, Links Parade, Carnoustie, DD7 7JD (“the Applicant”)**

**Mr Steven Martin Elder, 7 Collier Street, Carnoustie, DD7 7AJ (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £1373.63.**

**Background**

1. By application received on 19<sup>th</sup> December 2022 and made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £1373.63 in respect of unpaid rent. The Applicant lodged rent statements, correspondence from the tenancy deposit scheme, copy Notice to Leave dated 19<sup>th</sup> August 2022, and two private residential tenancy agreements that commenced on 28<sup>th</sup> January 2021 and ended on 3<sup>rd</sup> October 2022.
2. Notification of the application and the forthcoming Case Management Discussion upon the Respondent by Sheriff Officer was carried out on 8<sup>th</sup> February 2023.

## **The Case Management Discussion**

3. A Case Management Discussion (“CMD”) took place by telephone conference on 13<sup>th</sup> March 2023. The Applicant was in attendance. The Respondent was not in attendance.
4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent
5. The Applicant moved the Tribunal to grant an order in the sum sought. The tenancy commenced on 28<sup>th</sup> January 2021 and ended on 3<sup>rd</sup> October 2022. The Respondent accrued rent arrears in the sum of £1873.63 during the tenancy. The tenancy deposit of £500 was repaid to the Applicant by the tenancy deposit scheme and allocated towards the rent arrears, leaving a balance of £1373.63.

## **Findings in Fact and Law**

6.
  - (i) Parties entered into a private residential tenancy that commenced on 28<sup>th</sup> January 2021 and ended on 3<sup>rd</sup> October 2022, with rent due in the sum of £500 per month.
  - (ii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
  - (iii) The Applicant is entitled to recover rent lawfully due.

## **Reasons for Decision**

7. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

## **Decision**

8. An order for payment is granted in favour of the Applicant in the sum of £1373.63.

## **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.**

**Helen Forbes**

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**Legal Member/Chair**

**13<sup>th</sup> March 2023**  
**Date**