



**Decision with Written Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016.**

**Chamber Ref: FTS/HPC/CV/21/1091**

**Re: Property at 32 Rannoch Drive, Kirkintilloch, Glasgow, G66 2PP (“the Property”)**

**Parties:**

**Mr James Freel, 1 Blenheim Court, Steps, Glasgow, G33 6EA (“the Applicant”)**

**Ms Jane Irvine, 47 Mathieson Crescent, Steps, Glasgow, G33 6EH (“the Respondent”)**

**Tribunal Member:**

**Karen Kirk (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondent for the sum of £2658.05 plus interest at the rate of 3% per annum from the date of the Decision.**

## **Introduction**

This Case Management Discussion concerned an Application for civil proceedings in relation to a Private Residential Tenancy under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The hearing took place by teleconference due to the covid-19 pandemic.

### **1. Attendance and Representation**

Adam Gardiner, Lindsays, Caledonian Exchange, 19A Canning street, Edinburgh, EH3 8HE attended for the Applicants.

The Respondent was not present.

## **2. Background/ Preliminary Matters**

- a) The Tribunal noted that the Respondent had sought that the first hearing on 30<sup>th</sup> June 2021 be postponed at a late stage. The Tribunal had determined that there was insufficient information provided to postpone the Hearing. On the day prior to the Hearing on 29<sup>th</sup> June 2021 the Respondent submitted further representations to the Tribunal and indicated she was not able to appear as she was ingathering evidence. The Tribunal proceeded in her absence but the Chair indicated the Tribunal would not make a final decision in the case to allow the Respondent an opportunity to appear or be represented on the next occasion.
- b) The Tribunal in light of the Respondent's representations issued a direction to the Respondent on 30<sup>th</sup> June 2021 to provide:
  - *All information in whatever form held by her in regards the installation of a new boiler in 2018. Information can include copy text messages, whats app messages, emails, correspondence or phone records.*
  - *All information in whatever form held by her in regards a boiler failure including the date or dates of the boiler failure, when the failure was resolved and what impact if any the boiler failure had upon her and her family.*
  - *All information which can include copy text messages, whats app messages, emails, correspondence or phone records about the repairs for the property and contact she has made regarding them with the Applicant.*
- c) The Respondent has not appeared or complied with the terms of the Direction issued.
- d) The Tribunal prior to the next Case Management Discussion fixed to take place on 3<sup>rd</sup> August 2021 obtained a postponement request from the Respondent narrating she had a hospital scan appointment at the same time as the Hearing. The Tribunal asked for a copy of the hospital letter. On the basis of that letter the Tribunal postponed the Hearing until today's date.

## **3. Case Management Discussion.**

The Applicant's representative stated that the Applicant sought a payment order against the Respondent. The Applicant sought a payment order for £2658.05 in terms of the Applicant. The Applicant's representative referred to the terms of the rent statement lodged which he confirmed were accurate. In terms of the Respondent's position the Applicant's representative submitted that that the representations made did not provide enough specification to establish any defence to the Application. In the absence of any defence he sought a payment order for the said amount plus interest at 5% as stated in the Application.

## **4. Findings in Fact**

1. This Application is dated 7<sup>th</sup> May 2021 and brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicant is the heritable proprietor of the property.
3. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 13<sup>th</sup> June 2020.
4. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
5. Rent payable under this tenancy was £650 per month.
6. As at on or around December 2020 the rent due by the Respondent to the Applicant was £2658.05.
7. The Respondent has failed to provide to the Tribunal evidence it sought to allow it to consider the Representations made by the Respondent.
8. The Tribunal determined that in terms of Rule 41A a fair amount in terms of interest from the date of the decision in all the circumstances and in their discretion was 3%.

## **5. Reasons for Decision**

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Private Residential Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the respondents were in arrears of rent lawfully due and a Rent Statement for the property was lodged. Rent owed from same amounted to £2658.05. In the interests of justice and having regard to the overriding objective the Tribunal allowed a continuation to allow the Respondent to attend the Tribunal and issued Directions to allow the Tribunal to consider fully the representations she had made. The Respondent did not comply with the Direction and did not attend any of the two Hearings fixed for her or a representative to attend. The Tribunal considered there was no specified defence to the Application set out in the absence of compliance with the Direction or appearance by the Respondent or a representative and accordingly in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £2658.05 against the Respondent plus interest from the date of the Decision at the rate of 3%.

## **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. Kirk

25<sup>th</sup> August 2021

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Legal Member/Chair

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Date