



**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/22/0105

Re: Property at 25 Pinkerton Place, Rosyth, Dunfermline, KY11 2JN (“the Property”)

Parties:

PACT Enterprises Limited, Fife Housing Group, Pitreavie Court Queensferry Road, Pitreavie Business Park, Dunfermline, KY11 8UU (“the Applicant”)

Miss Lisa McMahon, 18 Glengask Grove, Kelty, KY4 0LZ (“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 £4049.95 with interest at the rate of 3% per annum 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 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 2 March 2022. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 13 April 2022 at 2pm by telephone conference call and that they were required to participate. They were provided with a telephone number and passcode.**

3. The CMD took place at 2pm on 13 April 2022. The Applicant was represented by Ms Donnelly. The Respondent did not participate and was not represented. She did not contact the Tribunal in advance of the CMD.

Case Management Discussion

4. The Legal Member noted that the application had been served by the Sheriff Officers at a different address from that specified in the application. The report from the Sheriff Officer stated that they had attended at the given address and were advised by the householder that the Respondent had moved from that address in August 2021. The Sheriff Officers then identified a forwarding address and had spoken to a resident of that address who confirmed that the Respondent resides there and accepted the copy application. The Legal Member also noted that the application and rent statement lodged indicate that the Respondent vacated the property on 17 September 2021. If correct, this suggests that the Respondent was residing at two different addresses prior to August 2021. Ms Donnelly advised the Legal Member that the Applicant had not informed her of the reason for the tenancy ending on 17 September 2021, only that it had done so. She referred the Legal Member to the rent statement which shows that two direct universal credit payments had been made to the rent account in July 2021. This suggests that she was still residing there at that time. She also advised the Legal Member that the service address was also the Respondent's former address, noted on the tenancy agreement, and might be a family home.
5. Ms Donnelly advised the Legal Member that the sum specified on the rent statement of £4049.95 is still outstanding. There has been no contact with or payments from the Respondent since the application was lodged. She confirmed that the Applicant was seeking a payment order for this sum together with interest at the rate of 3%.

Findings in Fact

6. The Applicant is the owner and former landlord of the property.
7. The Respondent was the tenant of the property in terms of a private residential tenancy. The tenancy ended on 17 September 2021.
8. The Respondent was due to pay rent at the rate of £596.48 per month.
9. The Respondent owes the sum of £4049.95 in unpaid rent to the Applicant.

Reasons for Decision

10. The Legal Member is satisfied that there has been valid service of the application, the Sheriff Officers having traced the Respondent to her current address and made enquiries regarding her occupation of same.

11. Having regard to the documents lodged with the application and the information provided at the CMD, the Legal Member is satisfied that the Respondent owes the sum of £4049.95 in unpaid rent and that the Applicant is entitled to payment order for this sum. The Applicant seeks interest at the rate of 3% on the principal sum. Regulation 41A of The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal can award interest either at the rate specified in the tenancy agreement or at the rate “ordered by the First-tier Tribunal and running from the date of the decision”. The Legal member is satisfied that it would be appropriate to include interest at the rate of 3% per annum.

Decision

12. The Legal Member determines that an order for payment 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. B

Josephine Bonnar, Legal Member

13 April 2022