



**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 (“the Act”) and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/CV/23/0035**

**Re: Property at 42 Caroline Crescent, Alva, FK12 5BT (“the Property”)**

**Parties:**

**Mr Nick Dayman, 11 Dewar Street, Dollar, FK14 7EP (“the Applicant”)**

**Mr Callum Gilbert residing sometime at the Property and now present whereabouts unknown (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that determined that an Order for payment of ONE THOUSAND FIVE HUNDRED AND SEVENTY FIVE POUNDS (£1,575.00) sterling be granted.**

**Background**

1. By application received between 4 and 30 January 2023 (“the Application”), the Applicant applied to the Tribunal for an Order for payment of rent arrears arising from a tenancy between the Parties and Antonia Gileaver. The Application comprised a statement of rent showing a balance of rent amounting to £1,575.00 due and owing by the Respondent to the Applicant to 2 November 2022 copy tenancy agreement between the Parties and Antonia Gileaver.
2. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 20 April 2023 at 14.00 by telephone conference. The CMD was intimated to the Parties and, in particular, served on the Respondent by website

advertisement. The CMD took place on 20 April 2023 at 14.00 by telephone conference by telephone. The Applicant did not take part and was not represented. The Respondent did not take part and was not represented. He did not lodge written representations. As the Tribunal could not be certain that the sum sought is due and owing by the Respondent to the Applicant, the Tribunal refused the Application and made no Order.

### **Recall Application**

3. By email dated 4 May 2023, the Applicant applied for a recall of the decision by the Tribunal in terms of Rule 30 of the Rules. The recall application was granted and a further CMD was fixed for 28 August 2023 at 10.00 by telephone conference. The CMD was intimated to the Parties and, in particular, served on the Respondent by website advertisement

### **Further CMD**

4. The CMD took place on 28 August 2023 at 10.00 by telephone conference by telephone. The Applicant took part and was not represented by Mrs. E. Park of the Applicants' Agents. The Respondent did not take part and was not represented. He did not submit written representations.
5. The Applicant confirmed to the Tribunal that the sum of £1,575.00 being three month's rent remains due and owing.

### **Findings in Fact**

6. From the Application, the Time to Pay Direction Application and the CMD, the Tribunal made the following findings in fact, :-
  - i) There was a tenancy of the Property between the Applicant, the Respondent and another party;
  - ii) The Respondent vacated the Property on or around 2 November 2022;
  - iii) The Respondent owes a debt of £1,575 in respect of in respect three month's unpaid rent;
  - iv) The Applicant is entitled to an Order for £1,575.00 against the Respondent.

### **Decision and reasons for the decision**

7. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussion .....including making a decision" Having found in fact that the Respondent is due and owing to the Applicant for the sum of £1,575.00, the Tribunal proceeded to make an order for payment in this sum

### **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 Moore

28 August 2023

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Legal Member/Chair

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Date