

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act  
2014**

**Chamber Ref: FTS/HPC/CV/23/0737**

**Re: Property at 2 Mill Lane, Tayport, Fife, DD6 9EN ("the Property")**

**Parties:**

**Mr Saghir Habib, 1 Nethergray Lane, Dundee, DD2 5GW ("the Applicant")**

**Ms Yasmin Stewart, 2 Mill Lane, Tayport, Fife, DD6 9EN ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member)**

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

At the Case Management Discussion ("CMD"), which took place by telephone conference on 1 June 2023. The Applicant was represented by Mr David Wilkie of The Property Management Company. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

Prior to the CMD the Tribunal received emails from Mr Wilkie for the Applicant dated 27 April, 15 and 24 May 2023

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-**

**Background**

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 17 September 2020.
- ii. The rent payable in terms of the PRT was agreed to be £550 per calendar month payable in advance.

- iii. A deposit of £550 was also paid by the Respondent to the Applicant at the outset of the PRT.
- iv. The application by the Applicant is for a payment order against the Respondent in a sum of £1,141.23 by way of rent arrears.

### **The CMD**

At the CMD the Applicant's representative made the following representations:-

- i. The Respondent remains in occupation of the Property.
- ii. The deposit of £550 is still held by Safe Deposits Scotland.
- iii. The Respondent made a payment of £650 on 25 May 2023.
- iv. Whilst in terms of the PRT rent is payable on the 17<sup>th</sup> day of the month, in October 2020 at the Respondent's request the payment day was changed to the 1<sup>st</sup> day of each month to accommodate the Respondent's budgeting arrangements.
- v. The total arrears balance as at the date of the CMD, to include rent due on 1 June 2023, is £1,541.23.
- vi. The Applicant seeks:-
  - to amend the application in terms of Rule 14 of the Rules to claim interest on rent arrears due in terms of Clause 8 of the PRT which allows interest to be charged at 5% above the Bank of England Base Rate of interest; and
  - a payment order.

### **Findings in Fact**

- i. The Applicant leased the Property to the Respondent in terms of the PRT.
- ii. The PRT commenced on 17 September 2020.
- iii. The rent payable in terms of the PRT was agreed to be £550 per calendar month payable in advance on the 17<sup>th</sup> day of each month.
- iv. Interest is due on unpaid rent in terms of Clause 8 of the PRT at 5% per annum above the Bank of England Base Rate of interest.
- v. By agreement between the parties, in October 2020 the payment day was changed to the 1<sup>st</sup> day of each month.
- vi. A deposit of £550 was also paid by the Respondent to the Applicant at the outset of the PRT and is held by Safe Deposits Scotland.
- vii. The Respondent is in occupation of the Property.
- viii. The total arrears due by the Respondent to the Applicant as at the CMD are £1,541.23.
- ix. The total arrears due by the Respondent to the Applicant as at the date of the application were £1,141.23.

### **Reasons for Decision**

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally on his behalf at the CMD was not challenged and was accepted by the Tribunal.

Interest is due and payable in terms of Clause 8 of the PRT.

A payment order is therefore due to be made in favour of the Applicant.

### **Decision**

The Tribunal:-

- i. Allowed the application to be amended in terms of Rule 14 of the Rules to include a claim for interest on outstanding rent; and

- ii. Granted a payment order against the Respondent in favour of the Applicant in a sum of £1,141.23 with interest on that amount at 5% above the Base Rate of interest of the Bank of England from time to time from the date of this decision until payment.

### **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.**

**Gillian Buchanan**

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**Legal Member/Chair**

**Date: 1 June 2023**