



**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/23/1387**

**Re: Property at 7 Bannockburn Street, Greenock, Inverclyde, PA16 9DF (“the Property”)**

**Parties:**

**Mrs Ellen Gisbey, 30 Gordon Street, Greenock, PA15 4HY (“the Applicant”)**

**Mr Jamie Fisher, 7 Bannockburn Street, Greenock, Inverclyde, PA16 9DF (“the Respondent”)**

**Tribunal Members:**

**Andrew Upton (Legal Member) and Frances Wood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is liable to make payment to the Applicant in the sum of THREE THOUSAND TWO HUNDRED AND SIXTY-EIGHT POUNDS (£3,268.00) STERLING.**

**Findings in Fact**

1. The Applicant is the landlord, and the Respondent the tenant, under and in terms of a Private Residential Tenancy Agreement.
2. The monthly rent is £500.
3. The Respondent is in arrears of rent in the sum of £3,268.

**Findings in Fact and Law**

1. The Respondent is under contractual obligation to make payment to the Applicant in the sum of £3,268.

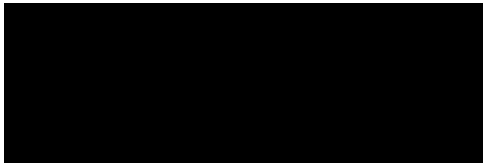
## Statement of Reasons

1. This Application called for a Hearing by teleconference call on 23 October 2023. The Applicant was present and represented by Mr Caldwell, solicitor. The Respondent was initially represented by Miss Fidelo, solicitor, but was not personally present. The Application called alongside a related application for an eviction order (EV/23/1386).
2. In this Application the Applicant seeks a payment order. She contends that the Respondent is in arrears of rent. In advance of the Hearing, the Applicant made a motion under Rule 14A of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017 ("the Rules") to increase the sum claimed to £3,324. That motion was not opposed by Miss Fidelo, and the Tribunal amended the Application accordingly. Mr Caldwell confirmed that since the motion had been lodged, a single payment of £56 had been received from source, being the Respondent's Discretionary Housing Payment. No other payments had been received. Miss Fidelo confirmed that this accorded with her understanding. Miss Fidelo was unable to confirm why the Respondent had failed to make any other payments. Mr Caldwell suggested that he had been advised that the Respondent had prioritised other debts ahead of his rent. Miss Fidelo confirmed that was consistent with her understanding, but was unable to advise what the other debts were.
3. Thereafter, Miss Fidelo advised that she was unable to continue to represent the Respondent's interests in the Applications. Evidence required to be heard from the Respondent in the Eviction application in particular, but he had not attended at Miss Fidelo's office for that purpose, nor had he dialled in separately. In the circumstances, Miss Fidelo withdrew from acting. As such, the Respondent was thereafter absent from the proceedings.
4. In terms of Rule 29 of the Rules, the Tribunal may proceed to consider an application at a hearing in absence of a party where satisfied that proper notice of the hearing has been given to the absent party. The Tribunal was satisfied that proper notice of the hearing had been given. In terms of Rule 2, the Tribunal must have regard to the overriding objective to deal with proceedings justly when making any decision, including the need to avoid unnecessary delay.
5. In this Application, the Respondent does not dispute that he is in arrears, or the value of the arrears. That much was confirmed by Miss Fidelo prior to her withdrawal from acting. In the circumstances, the Tribunal was satisfied that further delay in this case, which would have been caused entirely by the Respondent's failure to appear having agreed with Miss Fidelo on Friday 20 October 2023 to attend her office for that purpose, would be unnecessary. Accordingly, the Tribunal determined to proceed with this Application in absence of the Respondent.

6. The Respondent was aware of the hearing but chose not to attend. No defence had been offered to the Application. In the circumstances, the Tribunal was satisfied that the Respondent was in arrears of rent and that a payment order should be granted. The amended sum claimed was £3,324. However, given that a payment of £56 had been received since the amendment had been sought, the Tribunal determined that the correct sum due by the Respondent to the Applicant as at 23 October 2023 was £3,268, being the sum claimed for under deduction of the recently received payment. A payment order was granted in that 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.**



**23/10/2023**

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**Legal Member/Chair**

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**Date**