



**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/23/2562**

**Re: Property at 33 Links Road, Saltocats, KA21 6BQ (“the Property”)**

**Parties:**

**Ecosse Estates Ltd, Office 2, Room 8, Kirkhill House, 81 Road East, Newton Mearns, G77 5LL (“the Applicant”)**

**Miss Kelly Brien, 33 Links Road, Saltocats, KA21 6BQ (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Mary Lyden (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent for £4674.14.**

This was a Case Management Discussion to consider an application brought before the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended for civil proceedings in respect of a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The discussion took place by teleconference.

**1. Attendance and Representation.**

James McMillan, property manager for the Applicant’s attended on their behalf.

The Respondent was not in attendance. She had been served by Sheriff Officer on the 20<sup>th</sup> September 2023.

## **2. Preliminary Matters**

The Applicant's representative confirmed that they had visited the property 2 weeks ago and spoke to the Applicant's daughter. They reminded them of this hearing.

The Tribunal confirmed that an up to date rent statement had been lodged with the Tribunal and noted the rent arrears within same amounted to £4674.14 as at 2<sup>nd</sup> October 2023. The Tribunal was advised that the Respondent sought to amend the sum sought to £4674.14. He confirmed that the Respondent receives rent statements monthly. The Tribunal allowed the sum sought to be amended on the basis of the rent statement sent to the Tribunal before the hearing and intimated on the Respondent.

No written representations or contact from the Respondent on the application had been received by the Tribunal prior to the hearing commencing.

There were no other preliminary matters raised.

## **3. Case Management Discussion**

The Applicant's representative told the Tribunal the Applicants sought a payment order of £4674.14 against the Respondent. The Applicant's representative said that the Private Residential Tenancy commenced on 13<sup>th</sup> July 2019. Rent per calendar month was £525. The Applicant's representative submitted further that the Respondent was a self-employed hairdresser. At the start of the tenancy he said the Respondent was a full time employed hairdresser. He believes the rent arrears accrued due to the change in employment. From March to September 2023 the Respondent made no payments to rent and there was no contact between parties regarding any proposed payment plans. In connection with an Eviction application between parties the Applicant's representative said that Respondent had been sent the pre-action protocol on rent arrears and this has not allowed for any successful payment plans to be achieved.

## **4. Findings in Fact**

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondent had been served personally by Sheriff Officer on 20<sup>th</sup> September 2023, remains in the property and had not provided any written representations or appeared at the Hearing.**

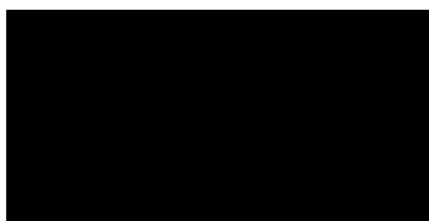
2. The Applicant and the Respondent entered into a Private Residential Tenancy on 13<sup>th</sup> July 2019. A copy of same was lodged.
3. Rent per calendar month in terms of the tenancy due was £525.
4. A rent statement lodged showed rent arrears of £4674.14 due by the Respondent as at 2<sup>nd</sup> October 2023.
5. The Respondent owes to the Applicants in terms of the rent arrears due the sum of £4674.14.

## 5. Reasons for Decision

The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property. The Tribunal was satisfied that there was a 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 respondent were in arrears of rent lawfully due. 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 £4674.14 against the Respondents.

## 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.



26<sup>th</sup> October 2023

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Legal Member/Chair

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Date