



**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) 2016 Act**

**Chamber Ref: FTS/HPC/CV/23/2426**

**Re: Property at 3 Bankpark Grange, Tranent, EH33 1ER (“the Property”)**

**Parties:**

**Stamford Hire Limited, C/O Direct Lettings, 5-6 Melville Place, Edinburgh, EH3 7PR (“the Applicant”)**

**Alistair Ross, Alyson Tait, 3 Bankpark Grange, Tranent, EH33 1ER (“the Respondents”)**

**Tribunal Members:**

**Joel Conn (Legal Member) and David Fotheringham (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that payment in the sum of £6,451.14 be granted against the Respondents.**

- 1) This was an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy (“PRT”) by the Applicant to the Respondents commencing on 27 November 2018.
- 2) The application was dated 20 July 2023 and lodged with the Tribunal on that date. The application sought payment of arrears of £6,451.14 (being the arrears due as of 17 July 2023) and was accompanied by a rent statement showing five missed rental payments of £1,800/month during a period between 27 November 2020 and 27 August 2021, followed by some payments against arrears but a regular shortfall in monthly rental payment of £105. The lease for the Tenancy accompanied the application and it detailed a rental payment of £1,800 payable in advance on the 27<sup>th</sup> of each month.

## **The Hearing**

- 3) The matter called for a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 29 November 2023 at 10:00. We were addressed by Jacqueline McAinsh, Property Manager, Direct Lettings, on behalf of the Applicant. There was no appearance from the Respondents.
- 4) We were informed by the clerk that no contact had been received from the Respondents (or on their behalf) with the Tribunal. The Applicant's agent said that communication with the Respondents was not good. The Applicants' agent believed the Respondents remained at the Property.
- 5) We considered that the Respondents had received clear intimation of the CMD from Sheriff Officers. Having not commenced the CMD until around 10:15, we were satisfied to consider the application in the Respondents' absence. In any case, no attempt was made by either of the Respondents (nor anyone on their behalf) to dial in late to the CMD.
- 6) At the CMD, the Applicant's agent confirmed that the application for eviction was still insisted upon. Shortly prior to the CMD commencing, the Applicant's agent informed the Tribunal Clerk that an updated statement of arrears had been sent in some days earlier but it was not in process. Arrangements were made for it to be resent and the statement was reviewed by us during the CMD. The arrears to the date of the CMD were now £10,324.02. The increased sum of arrears had arisen due to no payments having been received since 23 October 2023 (so missed rental payments for 27 October and 27 November 2023) plus an incremental increase in arrears each month due to the shortfall in rent payments (which was not fully off-set by payments coming in against arrears).
- 7) The Applicant's agent confirmed that she was satisfied to move the application based on seeking arrears of £6,451.14 due to 17 July 2023 and reserving her position to return to the Tribunal for a further application in regard to the further arrears now incurred.
- 8) No motion was made for expenses. The Applicants' agent confirmed that no motion was made for interest.

## **Findings in Fact**

- 9) On or about 27 November 2018 the Applicant let the Property as a Private Residential Tenancy to the Respondents under a lease with commencement on that day ("the Tenancy").
- 10) In terms of clause 8 of the Tenancy Agreement, the Respondents required to pay rent of £1,800 a month in advance on the 27<sup>th</sup> day of each month.

- 11) On 20 July 2023, the Applicant raised proceedings against the Respondents for an order for payment of the rent arrears of £6,451.14 said to be due to 17 July 2023, being arrears accumulated through missed payments and shortfalls in rent (less some payments against arrears) from the 27 November 2020 until 17 July 2023.
- 12) On 24 October 2023, the Tribunal intimated to the Respondents the date and time of the CMD of 29 November 2023 by Sheriff Officer.
- 13) The arrears due as at 29 November 2023 are £10,324.02 in respect of rent due to 27 November 2023.
- 14) The Respondents provided no evidence of payment of any part of the said unpaid rent of £6,451.14 as at 17 July 2023.

### **Reasons for Decision**

- 15) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. We were satisfied, on the basis of the application and supporting papers, that rent arrears of £6,451.14 were due for the period to 17 July 2023 and remained outstanding as of today.
- 16) No defence was made by the Respondents to any part of the application. (There was no appearance or defence to a conjoined application for eviction either.)
- 17) The application, supplemented by the updated rent arrears statement, clearly set out the sums sought and we were satisfied that the necessary level of evidence for these civil proceedings had been provided.
- 18) The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. We were thus satisfied to make a decision at the CMD to award the sum of £6,451.14 against the Respondents, being an order restricted to sums due under the Tenancy in regard to rent arrears up to 17 July 2023.

### **Decision**

- 19) In all the circumstances, we were satisfied to make the decision to grant an order against the Respondents for payment of £6,451.14.

## **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.**

# Joel Conn

**29 November 2023**

**Legal Member/Chair**

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**Date**