



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)**

**Chamber Ref: FTS/HPC/CV/23/2409**

**Re: Property at 116 Lauriston Place, Edinburgh, EH3 9HX (“the Property”)**

**Parties:**

**Miss Charlotte Elias, 21 Learmonth Terrace, Edinburgh, EH4 1PG (“the Applicant”)**

**Mr Percy Morgan, Aaron Phillip Gallagher, 116 Lauriston Place, Edinburgh, EH3 9HX (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Elizabeth Williams (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent in the sum of £7,055.32 should be made in favour of the Applicant.**

**Background**

1. By application received on 20 July 2023, the Applicant applied to the Tribunal for an order for payment of rent arrears amounting to £7,055.32 against the Respondent. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement and a rent ledger account in respect of the rent arrears.
2. Following initial procedure, on 7 September 2023, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. Notification of the application and details of the Case Management Discussion (“CMD”) fixed for 7 December 2023 was served on both Respondents by way

of Sheriff Officer on 30 October 2023. In terms of said notification, the Respondent was given until 17 November 2023 to lodge written representations. No representations were lodged by or on behalf of the Respondent prior to the CMD.

### **Case Management Discussion**

4. The Case Management Discussion ("CMD") took place by telephone conference call on 7 December 2023 at 2pm, attended by Ms Kelly Gibson of Ballantynes Letting Agents on behalf of the Applicant. The Tribunal delayed the commencement of the CMD for around 5 minutes to give the Respondent an opportunity to join late but they did not do so.
5. After introductions and introductory remarks by the Legal Member, there was discussion regarding the payment application and the fact that it did not appear to be opposed by the Respondent. Although the application sought payment in the sum of £7,055.32, Ms Gibson explained that the arrears currently amounted to £13,530.32. It was explained to Ms Gibson, that, even although the application was not opposed by the Respondent, as there had been no application in terms of the procedure Regulations to increase the sum claimed prior to the CMD, which would have required to have been notified to the Respondent, the Tribunal would not be able to grant an order for more than the original sum sought today. Ms Gibson was informed that there was the option of her seeking an adjournment of the CMD, to allow the process of amendment of the application to take place. Having further considered matters, Ms Gibson opted to proceed today on the basis of the original sum sought and may be instructed in due course to lodge a further application in terms of rental owing.
6. Ms Gibson advised that there are currently rent arrears amounting to £13,530.32. The tenancy began in 2021 and there were no issues with arrears until January 2023 when payments stopped. No rent payments have been made by the Respondent since January 2023. The rent is £1,295 per calendar month. They have had only sporadic communication with the Respondent. It was mainly the second Respondent, Mr Gallagher, who dealt with the rent side of things and he told her he had been making the rent payments from his savings. He is American and Ms Gibson says he has told her that he is now back living in America, following the Respondent's relationship breakdown. The first Respondent, Mr Morgan, does not communicate at all and has also been refusing to allow access to the Property. Ms Gibson explained that they are now on their third right of entry application through the Tribunal and that they are supposed to be getting entry on 14 December 2023. They need in to attend to the gas safety check and possibly other repairs. Ms Gibson is certain that Mr Morgan is still living at the Property and that he lives alone. As to the more recent payments into the rent account in July 2023 of just over £700, Ms Gibson explained that she had been in contact with the local authority to see about arranging Universal Credit housing payments being made directly to the Applicant. This is how these payments into the account came about. However, there were no further

payments made as she was told that the Respondent is not eligible. She does not have any more detail regarding Mr Morgan's circumstances as they are not in communication. In summing up, Ms Gibson asked the Tribunal to grant the payment order today.

7. The Tribunal, having considered the application, confirmed that the payment order would be granted in the sum of £7,055.32. There was brief discussion regarding the process to follow and Ms Gibson was thanked for her attendance.

## **Findings in Fact**

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the joint tenant of the Property by virtue of a Private Residential Tenancy which commenced on 23 April 2021.
3. The rent in terms of the tenancy was £575 per calendar month.
4. The second Respondent is still in occupation.
5. Rent arrears have accrued since January 2023 when the Respondent stopped making rent payments.
6. The Respondent has been called upon to make payment in respect of the rent and arrears but have failed to do so.
7. When this application was submitted to the Tribunal, arrears amounted to £7,055.32.
8. Current rent arrears amount to £13,530.32.
9. The sum of £7,055.32 is due and resting owing by the Respondents to the Applicant.
10. The Respondent does not oppose the application.

## **Reasons for Decision**

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, and the oral information given at the CMD on behalf of the Applicant by Ms Gibson. The Respondent did not lodge any written representations nor attend the CMD, having been properly and timeously notified of same.
2. The Tribunal considered that there was nothing to contradict the information from the Applicant and therefore no requirement to continue the application to

an Evidential Hearing. The Tribunal had regard to the terms of the tenancy agreement and the rent ledger account and was satisfied that the sum of £7,055.32 was due and resting owing in respect of unpaid rent due to the Applicant in terms of this application.

3. The Tribunal concluded that, in the circumstances, an order in the sum originally sought could properly be made at the CMD today and that there was no requirement for an Evidential Hearing.

### **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.**

# N. Weir

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Legal Member/Chair

7 December 2023  
Date