



**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/23/2673**

**Re: Property at 118 Craighour Drive, Edinburgh, EH17 7NT (“the Property”)**

**Parties:**

**Mrs Heidi Grant, 26 Wedale View, Stow, Galashiels, YD1 2SJ (“the Applicant”)**

**Mr Joseph Gallagher, 83 Moredun Park Road, Edinburgh, EH17 7HJ (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal 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 in favour of the Applicant in the sum of £6,371.45.**

**Background**

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the Respondent.
2. By decision dated 26 September 2023, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal intimated the application to the parties by letter of 17 October 2023 and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the

procedure to have been fair. The Respondent was invited to make written representations by 7 November 2023. No written representations were received.

4. On 20 August 2023, the Tribunal received further representations from the Applicant's representative by email and noted that the email had been copied to the Respondent.

#### **The case management discussion ("CMD") 8 August 2023**

5. The Applicant was represented by Mr Runciman. The CMD took place by conference call and proceeded in the absence of the Respondent. The Applicant's representative explained that the tenant left the property owing rent arrears of £5,981.45. The tenant has not paid anything towards that outstanding sum. The Applicant has incurred additional expense in the sum of £390 arising from the tenant's failure to pay rent. The Respondent is the guarantor in terms of the tenancy agreement. The Respondent has been called upon to make payment but has failed to do so. The Applicant's representative moved for an order in the sum of £6,371.45.

#### **Findings in Fact**

6. The Respondent guaranteed the obligations of the Applicant's tenant in respect of a private residential tenancy which commenced 9 December 2020.
7. The Applicant's tenant incurred rent arrears amounting to £5,981.45.
8. The Applicant incurred additional expenses in connection with the tenant's failure to pay rent.

#### **Reason for Decision**

9. The Tribunal proceeded on the basis of the written documents which were before it and submissions made at the CMD. The Applicant's representative invited the Tribunal to make the Order sought. The Tribunal noted that the details of the additional expenses had been intimated to the Respondent. The Tribunal therefore allowed the sum sued for to be amended to £6,371.45. There was nothing to suggest that the Respondent disputed the accuracy of the rent statement. The Tribunal was satisfied that the tenant had incurred rent arrears amounting to £5,981.45 and that the Respondent had guaranteed the tenant's responsibility to pay rent. Further, the Tribunal was satisfied that the Applicant had incurred additional expenses as a consequence of the tenant failing to pay rent. In terms of clause 8 of the tenancy agreement, the Applicant is entitled to recover that additional expense.

## 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. Irvine

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Legal Member/Chair

21 November 2023

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Date