



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/23/2905**

**Re: Property at 6 Middlemass Court, Falkirk, Stirlingshire, FK2 7ER (“the Property”)**

**Parties:**

**Mrs Rhonda Jager-Stirling, Buggrueti Strasse 31, Benken-SG, Switzerland, 8717, Switzerland (“the Applicant”)**

**Mr Gary Risk, 41 Park Avenue, Dennyloanhead, Bonnybridge, FK4 1SD (“the Respondent”)**

**Tribunal Members:**

**Yvonne McKenna (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for a Payment Order is refused.**

**Background**

1. The Applicant sought an Order for Payment of £2463.27 in respect of arrears of rent. In addition she sought compensation for loss of rent, interest and expenses.
2. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 1 October 2021.
3. The rent payable in terms of the PRT was £525 per calendar month payable in advance on the first day of each month.
4. On 21 June 2022, the Applicant served on the Respondent by email of the same date a Notice to Leave requiring the Respondent remove from the Property by 22 July 2022 on the basis that the Respondent had allowed rent arrears to accrue over 3 consecutive months.

5. On 21 June 2022 the Applicant also served on the Respondent by email a letter in satisfaction of the pre-action protocol of the Scottish Government.
6. On or around 24 September 2022 the parties entered into an agreement in terms of which the Respondent agreed to pay to the Applicant the ongoing monthly rent due plus an additional amount towards the arrears calculated at a total of £165 per week payable each Friday. The Respondent failed to adhere to that agreement.
7. By email dated 25 January 2023 the Applicant served on Falkirk Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
8. A previous application for a Payment Order was submitted to the Tribunal under tribunal reference FTS/HPC/CV/23/0205 dated 6 February 2023 and sought a payment of £2,335. The tribunal granted this application on 29 June 2023 when a Payment Order was made.
9. An application for Eviction in respect of the Property was granted by the Tribunal on the same date, 29 June 2023.
10. At the date of the eviction the Respondent had accrued further rent arrears for the period from February to 29 June 2023 which were said to amount to £2463.27.
11. The Applicant had lodged Form F. The documents produced were:
  - Tenancy Agreement dated 4 February 2019;
  - Schedule of arrears
  - Letter to Respondent dated 8 August 2023 re arrears of rent
  - Copy of the Previous Payment Order Decision and Eviction Order Decision.
12. By Notice of Acceptance of Application dated 11 October 2023 a Legal Member with delegated powers from the Chamber President intimated that there were no grounds upon which to reject the application. A Case Management Discussion was therefore assigned and a copy of the application paperwork together with the date and time of the Case Management Discussion with instructions for joining the teleconference was served upon the Respondent by Sheriff Officers and on the Applicant by e-mail.

### **Case Management Discussion (“CMD”)**

13. A CMD took place on 1 December 2023 by conference call at 2pm.
14. Neither party were in attendance.
15. In the circumstances the application was dismissed due to a lack of want of insistence.

### **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.**



**Legal Member/Chair**

**1 December 2023**

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**Date**