



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 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/23/3029**

**Re: Property at 12 Kinnoull Place, Blantyre, G72 0BQ (“the Property”)**

**Parties:**

**Mr Jim Quinn, Wellbrae Cottage, Glassford, ML10 6TX (“the Applicant”)**

**Mr Gary Burt, Ms Jan Orr, 12 Kinnoull Place, Blantyre, G72 0BQ (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and David MacIver (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 £3,212 should be made in favour of the Applicant.**

**Background**

1. By application received on 29 August 2023, the Applicant applied to the Tribunal for an order for payment of rent arrears amounting to £3,212 against the Respondent. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement and a breakdown of the sum claimed in respect of the rent arrears.
2. Following initial procedure, on 13 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 9 January 2024 was served on both Respondents by way of Sheriff Officer on 14 November 2023. In terms of said notification, the

Respondent was given until 4 December 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 9 January 2024 at 10am, attended by the Applicant, Mr Jim Quinn, and his wife who was attending in a supportive capacity only. 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 £3,212, Mr Quinn advised that the current amount of arrears actually amounted to £8,262 as there has been a background of rent arrears throughout the tenancy. Mr Quinn explained that he had only included in this application the amount of the rent arrears which had accrued over the 14-month period from August 2022 to September 2023 as he only had bank statements to hand going back to August 2022 and wanted to put in the application quickly, together with his eviction application (also at CMD today under case reference FTS/HPC/EV/23/2983). Reference was made to the breakdown of arrears lodged with the application which showed the total rent due over the 14-month period as £7000, given that the rent due in terms of the tenancy is £500 per calendar month. Payments made over that period amounted to £3,788, leaving a shortfall of £3,212 which is the sum claimed. Mr Quinn confirmed that there have been no further payments towards rent made since the last payment shown in his breakdown of £500 on 28 July 2023. Mr Quinn confirmed he has had some dialogue with the Respondent regarding the rent arrears, although they have been more difficult to engage with recently, especially since he made them aware that he required to recover possession of the Property in order to sell it. He said that they previously made payment arrangements with him and that for a long period they kept a bit more on top of things, with the arrears running at around £1,500 on average. They did not offer him any explanation for the arrears. As far as he is aware, Ms Orr worked as a hairdresser and he does not know Mr Burt’s circumstances. He does not know if they receive benefits.
6. It was explained to Mr Quinn that, even although the application was not opposed by the Respondent, as there had been no application in terms of the procedural Regulations to increase the sum claimed prior to the CMD, which would have required to have been notified to the Respondent in advance, the Tribunal would not be able to grant an order for more than the original sum sought today. Mr Quinn was informed that there was the option of him seeking an adjournment of the CMD, to allow the process of amendment of the application to take place and for further evidence regarding the arrears to be produced. Having considered this, Mr Quinn opted to proceed today on the

basis of the original sum sought and advised that he may lodge a further application in due course to cover additional arrears.

7. The Tribunal adjourned the CMD briefly to consider the application and, on re-convening, advised Mr Quinn that a payment order would be granted today in the sum of £3,212. There was brief discussion regarding the process to follow and Mr Quinn was thanked for his 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 1 February 2020 (although the tenancy agreement purports to be a Short Assured Tenancy).
3. The rent in terms of the tenancy is £500 per calendar month.
4. The Respondent is still in occupation.
5. Rent arrears have accrued throughout the tenancy and currently amount to considerably more than the sum claimed in terms of this application.
6. In the period August 2022 to September 2023 inclusive, rent arrears amounting to £3,212 accrued.
7. The last payment made by the Respondent towards rent was £500 on 28 July 2023.
8. The Respondent has been called upon to make payment in respect of the rent and arrears but have failed to do so.
9. The sum of £3,212 is due and resting owing by the Respondent to the Applicant.
10. The Respondent has not opposed the application.

## **Reasons for Decision**

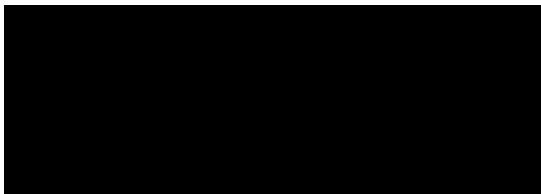
1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, and the oral information given at the CMD by the Applicant. The Respondent did not lodge any written representations nor attend the CMD, having been properly and timeously 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 breakdown of rent arrears produced and was satisfied that the sum of £3,212 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 sought of £3,212 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.**



**Legal Member/Chair**

**9 January 2024**  
**Date**