



**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/23/2531**

**Re: Property at 114 Flat 2/B Meadowfoot Road, West Kilbride, KA23 9BZ (“the Property”)**

**Parties:**

**Mr David Murphy, 33 Lumsden Place, Stevenston, KA20 4HF (“the Applicant”)**

**Miss Angela Meehan, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that payment order be granted against the Respondent and in favour of the Applicant in the sum of three thousand five hundred pounds only ( £3500).**

**Background**

1.This application for a payment order was first lodged with the tribunal in terms of Rule 111 of the tribunal rules of procedure on 27th of July 2023 along with a related application for an eviction with reference HPC.FTS.EV.23.2530.The applications were accepted by the Tribunal on 26<sup>th</sup> September 2023. A case management discussion was fixed in relation to both applications for 18th December 2023 at 2:00 pm.

**2.Case management Discussion**

The case management discussion was attended by Mrs Black, solicitor of Taylor and Henderson solicitors Saltcoats. There was no appearance by or on behalf of the

Respondent Angela Meehan. Attempts to serve the Tribunal application and papers on the Respondent by sheriff officers had been unsuccessful, a neighbour reporting that the Respondent had not lived at the property for over a year, when sheriff officers attended the property in November 2023. The tribunal had sight of a certificate indicating that the application had been served by advertisement on the tribunal's website with effect from 22nd November 2023. The tribunal was therefore satisfied that appropriate notice had been given to the Respondent within the tribunal rules and the applications could proceed in the absence of the Respondent.

3. The tribunal had sight of the application, a paper apart, a tenancy agreement, a series of emails, a letter from the joint owner of the property giving consent to the Applicant to deal with matters, a rent statement, a series of letters with payment history, text messages from the Applicant to the Respondent and details of the landlord's registration.

4. The parties had entered a tenancy at the property on the 1st of October 2021 with monthly rent payable of £350 payable on the second of each month. It was accepted that although this tenancy was in the form of a short, assured tenancy having been created in 2021 it is a private residential tenancy. The Respondent immediately failed to pay rent for the first month of the tenancy. The Applicant contacted the Respondent by letter and requested that the outstanding rent was paid by 1<sup>st</sup> December 2021. The Respondent assured the Applicant the rent would be repaid but since that date only sporadic payments were made to the Applicant in terms of rent. On 13th August 2022 the Respondent paid the rent covering July, August and September 2022. No rent has been paid since 2<sup>nd</sup> October 2022. The rent arrears accrued in terms of the tenancy agreement as of September 2023 are £4200.

5. Mrs Black advised the tribunal that the Applicant had attempted to resolve the issue of rent arrears and had visited the property on a number of occasions and attempted to contact the Respondent by phone and text. He had received no response and was unable to find the Respondent at the property. He had had no contact from her for over a year. The Applicant was not able to ascertain on his visits whether the Respondent remained in occupation at the let property and if she was still living there. She still retained keys to the property. The Applicant was not able to obtain any information by looking through the windows at the property on his visits. Mrs Black was of the view that the Respondent was no longer resident at the property and this view was based on information received from the tribunal when Sheriff officers were unable to serve the tribunal application and papers, having been advised by a neighbour that the Respondent had not been in residence for over a year.

6. The tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

### **Findings in Fact**

7. The parties entered into a private residential tenancy at the property with effect from 1st October 2021.

8. The monthly rent payable in respect of the tenancy is £350 payable in advance by the 2nd of each month.

9. Early in the tenancy the Respondent started to accrue rent arrears and no rent has been paid in terms of the tenancy agreement since October 2022.

10. As of the date of the application to the tribunal in July 2023 rent arrears in terms of the tenancy agreement stand at £3500.

11. Over the course of the tenancy the Applicant has attempted to contact the Respondent regarding the rent arrears on many occasions by telephone call, text message or by visiting the property.

12. The Applicant has had no contact from the Respondent since the autumn of 2022 when rent was last paid in terms of the agreement.

13. It is not clear if the Respondent is still in occupation at the property, but she still holds keys to the property and has never advised the Applicant that she has moved out.

14. The sum of £3500 is lawfully due by the Respondent to the Applicant in terms of unpaid rent due in terms of the tenancy between the parties.

### **Reasons for Decision**

15. The tribunal was satisfied that it was appropriate to grant a payment order here given the history of non-payment and the Respondent's repeated failures to respond to any contact regarding the rent arrears.

### **Decision**

The Tribunal determined that payment order be granted against the Respondent and in favour of the Applicant in the sum of three thousand five hundred pounds only (£3500).

### **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**

**18.12.23**

**Date**