



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/23/3233**

**Re: Property at 24 Sime Place, Galashiels, TD1 1ST (“the Property”)**

**Parties:**

**Waukrigg Development Company Ltd, 21 Market Street, Galashiels, TD1 3AD (“the Applicant”)**

**Mr William Derek Chapman, residing at 24 Sime Place, Galashiels, Selkirkshire, TD1 1ST (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum of £3560.00 was lawfully due by the Respondent and granted an order for payment of that sum by the Respondents to the Applicant.**

1. By an application dated 12<sup>th</sup> September 2023 (“the Application”), the Applicant sought an order for payment of £3560.00 from the Respondent in respect of rent arrears and contractual late payment fees.
2. The Application called for a Case Management Discussion (“CMD”) of the First-tier Tribunal for Scotland, Housing and Property Chamber, conducted by remote telephone conference call, on 22<sup>nd</sup> January 2024. The Applicant was represented on that call by their solicitor, Mr Steven Robertson. The Respondent also joined the conference call.
3. The Applicant had provided, with the Application, copies of the Private Residential Tenancy Agreement between the parties, together with a full rent statement showing all rent due by the Respondents during the period of the

Tenancy, together with the payments made by the Respondents over that same period. The rent statement showed the rent arrears had accrued by the Respondent in the sum of £12000 by the date of the CMD. The Respondent had also incurred contractual late payment fees in the sum of £2325 by the date of the CMD.

4. At the CMD the Respondent confirmed that he had not paid the rent for the Property for the period of 16 months. He confirmed that he accepted that the rent he was due to pay in terms of the Tenancy Agreement between the parties was £750 per month and that he had accrued rent arrears in the sum of £12000 as at the date of the CMD.
5. The tenancy agreement between the parties contains a provision which states that "if rent is paid late, a late rent fee will be charged at £5.00 per day for each day the rent remains unpaid". The Respondent did not seek to dispute his liability for this late payment fee. The Respondent accepted that he had accrued contractual late payment fees in the sum of £560 by the date of the CMD.
6. No application had been made by the Applicant to increase the sum claimed by the Applicant following submission of the Application. The amount that the Tribunal can order for payment is therefore restricted to the amount claimed in the Application, being £3560.

#### Findings in fact

7. The Applicant let the Property to the Respondents in terms of a written tenancy agreement which commenced on or around 25<sup>th</sup> November 2021. The monthly rent due in terms of the tenancy agreement between the parties is £750 per month.
8. The Respondents have accrued arrears of rent under the terms of her tenancy agreement in relation to the property in a sum in excess of £3000 as of 22<sup>nd</sup> January 2024. That sum continues to be due by the Respondent to the Applicant.
9. In addition, The Respondents have accrued contractual late payment fees due under the terms of the tenancy agreement between the parties in a sum in excess of £560 as of 22<sup>nd</sup> January 2024. That sum continues to be due by the Respondent to the Applicant.

#### Decision

10. The Tribunal accordingly granted an order for payment by the Respondent to the Applicant in the total sum of £3560.00.

## 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.



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Legal Member/Chair

22<sup>nd</sup> January 2024

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Date