

**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/23/3671**

**Re: Property at 43 Black Loch Place, Dunfermline, KY11 8ZD (“the Property”)**

**Parties:**

**Kingdom Initiatives Limited, Saltire Centre, Pentland Court, Glenrothes, KY6 2DA (“the Applicant”)**

**Mr Michael Keddie, 43 Black Loch Place, Dunfermline, KY11 8ZD (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member) and Eileen Shand (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of TWELVE THOUSAND TWO HUNDRED AND THIRTY EIGHT POUNDS AND FIFTY PENCE (£12 238.50) STERLING with interest at 8% per annum from the date of the order until payment. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

**Background**

- 1. This is an action for recovery of rent arrears and interest raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a copy of a Head Lease between Kingdom Housing Association and the Applicant, a Private Residential**

Tenancy Agreement between the parties dated 20 August 2018 and a rent statement.

3. On 8 November 2023, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 8 December 2023 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 29 December 2023. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 5 February 2024. This paperwork was served on the Respondent by William Wywalec, Sheriff Officer, Kirkcaldy on 11 December 2023 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not lodge any written representations by 29 December 2023.
6. On 16 January 2024 the Applicant's solicitor requested that the application be amended in relation to the sum claimed from £10,716.81 to £12,238.50 in terms of Rule 14A of the Regulations.
7. On 22 January 2024, in response to a Notice of Direction the Applicant's solicitor forwarded an up to date rent statement.

### **Case Management Discussion**

8. The Tribunal proceeded with a CMD on 5 February 2024 by way of teleconference. Ms Brechany from TC Young, solicitors appeared for the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence. The action was heard together with an action for payment of rent arrears under reference FTS/HPC/EV/23/3670.
9. The Tribunal had before it the copy Head Lease between Kingdom Housing Association and the Applicant, the Private Residential Tenancy Agreement between the parties dated 20 August 2018 and a rent statement to 1 January 2024, The Tribunal considered these documents.
10. Ms Brechany moved the Tribunal to allow the sum sought to be increased to £12 238. 38 with reference to her email of 16 January 2024. This had been intimated on the Respondent. Arrears had increased from £10 716.81 when the application was submitted and have now increased to £12 745.73 as at 5 February 2024. She referred to Clause 8 of the tenancy agreement in terms of which the Respondent was obliged to pay monthly rent. The Tribunal noted that the current rent was £507.23.

11. She further submitted that arrears had accrued over a number of years. The Applicant has assisted the Respondent with a payment of £1000 towards the arrears from their Tenant Grant Fund. The Tribunal noted this payment on the rent statement made on 5 November 2020. Letters have been sent signposting him to advice agencies, most recently on 22 January 2024 and 30 January 2024 when he had been sent letters which signposted him to agencies such as Frontline Fife. The Respondent had made a proposal to pay £550 per month when the arrears were about £9000, but had not adhered to that. Direct debts failed and arrears started to increase. The last payment was on 5 June 2023. The Respondent has advised the Applicant that although he has the means to pay rent, he does not see the point in doing so if he is being evicted.

### **Reasons for Decision**

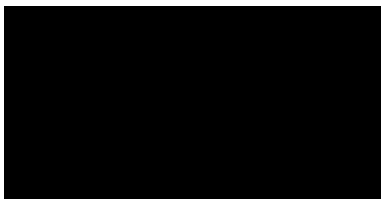
12. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent statement. Further the Tribunal considered the submissions made by Ms Brechany.
13. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicant had produced evidence of persistent non-payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Ms Brechany's submissions that an order for payment in favour of the Applicant be granted.

### **Decision**

14. The Tribunal granted an order for payment of £12,238.50 with interest at 8% per annum from the date of Order in favour of the Applicant.

### **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 Chair**

**5 February 2024**

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**Date**