



**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/23/2619**

**Re: Property at 2B Clinton Road, Edinburgh, EH9 2AW (“the Property”)**

**Parties:**

**Mrs Kathleen Wilson, c/o 5 Atholl Crescent, Edinburgh, EH3 8EJ (“the Applicant”)**

**Mr Alasdair Davies, Mr Jamie Scott, 2B Clinton Road, Edinburgh, EH9 2AW (“the Respondents”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £10760 (TEN THOUSAND SEVEN HUNDRED AND SIXTY POUNDS).**

**Background**

1. An application was received by the Housing and Property Chamber dated 27<sup>th</sup> July 2023. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 6<sup>th</sup> December 2023 all parties were written to with the date for the Case Management Discussion (“CMD”) of 31<sup>st</sup> January 2024 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 27<sup>th</sup> December 2023.

3. On 7<sup>th</sup> December 2023, sheriff officers served the letter with notice of the hearing date and documentation upon both of the Respondents. This was evidenced by Certificate of Intimation dated 7<sup>th</sup> December 2023.

#### The Case Management Discussion

4. A CMD was held 31<sup>st</sup> January 2024 at 11.30am by teleconferencing. The Applicant was not present but was represented by Mr Alexander Robertson, Solicitor, Gillespie McAndrew LLP. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make representations in advance of the CMD.
5. Mr Robertson raised to the Tribunal that the Applicant does not have capacity to enter into these proceedings. She has a Guardianship Order which places Mr John McArthur as her guardian. In that position he has a duty to recover any monies owed to the Applicant. Mr McArthur is a solicitor within Mr Robertson's firm. The Tribunal had sight of the Guardianship Order within the papers. The Tribunal was content to continue on this basis.
6. Mr Robertson said that there has been no contact from either of the Respondents. They left the Property in October 2023. An eviction application was raised at the same time as this application but was withdrawn when the Respondents left. It is believed that one of the Respondents is currently living in hostel accommodation.
7. Mr Robertson said that there have been attempts to contact the Respondents. When they were still living in the Property they were written to on 4<sup>th</sup> May 2023 and 26<sup>th</sup> July 2027 with the required Pre Action Requirement letters for the eviction case. These letters detail the amounts due and where the Respondents could go for help and assistance.
8. The Tribunal was satisfied that the outstanding amount for £10760 was due to the Applicant by the Respondents and that it was appropriate to grant an order accordingly.

#### Findings and reason for decision

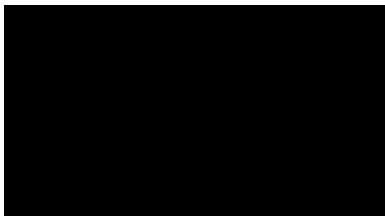
9. A Private Rented Tenancy Agreement commenced 1<sup>st</sup> June 2022.
10. The Respondents have persistently failed to pay their rent charge of £1000 per month. The rent payments are due to be paid on first day of each month.
11. The Respondents have not made any offers of payment.
12. The arrears sought total £10760.

Decision

13. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £10760.

**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.**



**31<sup>st</sup> January 2024**

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**Legal Member/Chair**

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**Date**