



**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/23/3872**

**Re: Property at 547 Charleston Drive, Dundee, DD2 4HS (“the Property”)**

**Parties:**

**Mr Tapiwa Wamambo, Flat 6 Ernid House, 20 Seale Street, St Helier, JE2 3QG, Jersey (“the Applicant”)**

**Miss Bethany Townsley, 547 Charleston Drive, Dundee, DD2 4HS (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Melanie Booth (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a payment order in favour of the Applicant and against the Respondent in the sum of one thousand one hundred and ten pounds only (£1110.00) together with interest at the rate of 10.25 per cent per year until paid.**

**Background**

1.This application for a payment order in terms of rule 119 of the Tribunal rules of procedure was first lodged with the Tribunal on 1<sup>st</sup> November 2023 together with a related application FTS.HPC.EV.23.3871 and both applications accepted by the Tribunal on 20<sup>th</sup> November 2023 .A case management discussion was fixed for 2<sup>nd</sup> February 2024 at 10am.

**Case Management Discussion**

2.The case management discussion was attended by Mr Wilkie of the Property Management Company to represent the Applicant who was not in attendance. There

was no attendance by or on behalf the Respondent. The Tribunal members noted that the application and papers had been served on the Respondent by Sheriff officers putting these through the letterbox at the let property on 12<sup>th</sup> December 2023. The Tribunal was satisfied that the Respondent had been given fair notice of the application and case management discussion and that it was appropriate to proceed in her absence.

3. The Tribunal had sight of the applications, the tenancy agreement between the parties, an affidavit signed by the Applicant accompanied by verified identification of the Applicant, a Notice to Leave and email sending this to the Respondent, a rent account statement, and a notice in term of section 11 of the Homelessness etc (Scotland) Act 2003 sent to Dundee City Council on 31<sup>st</sup> October 2023. Mr Wilkie had also emailed the Tribunal on 19<sup>th</sup> January 2024 setting out that rent arrears would reach £1110 by the date of the case management discussion and seeking to increase the sum being requested in terms of a payment order. A further up to date rent statement was also provided and the request to increase the sum being requested had been copied to the Respondent. The Tribunal was satisfied that it could consider the higher sum being requested in terms of the Tribunal rules of procedure.

4. The parties entered into a tenancy agreement at the property with effect from 23<sup>rd</sup> November 2018 with monthly rent of £450 payable in terms of this agreement. The rent had increased to £480 per month with effect from June 2021. Mr Wilkie said that the Respondent had not been a bad tenant. He was unsure if she had moved on as when he had passed the property some days before the case management discussion it appeared to be what he described as "light" on furniture.

5. When asked further regarding the property Mr Wilkie indicated that he had recently seen boxes piled up outside the property and had formed the view that the Respondent may be in the process of moving out. He had seen the hallway light at the property on in the evening and noted that there was still furniture at the property. He believed that there were still signs of occupation at the property and advised that the keys to the property had not been returned by the Respondent.

6. Mr Wilkie did not have a great deal of information on the Respondent's circumstances but was aware that she has one child whose age he did not know. The let property was a two-bedroom property. He believed that the Respondent and her child had no health issues or disabilities and that the Respondent worked part time in a pre-school nursery.

7. Mr Wilkie advised that rent arrears had accrued in terms of the tenancy and these had started when the Respondent had changed job. The rent arrears had come down slightly in August 2023 but had built back up and no payment had been received since November 2023. The rent arrears had now reached what he described as a worrying level for the Applicant and now stood at £1110. Mr Wilkie was not aware of any information which might suggest the rent arrears had accrued due to any delay or failure in relation to benefit payments but understood that the Respondent paid rent in part from housing benefit which was paid to her directly. No payment plans had been put in place as the rent arrears fluctuated but he had formed the view that the

Respondent was not able to keep up with the rent payments. The Respondent was aware of the unpaid rent but had not made contact to address the arrears.

8. There was discussion as to the rate of interest which was being requested and Mr Wilkie noted that the tenancy agreement at clause 8 allowed for interest at 5% above Bank of England base rate to be applied to any payments of rent not paid to the Applicant 14 days after they fell due. It was agreed that Bank of England base rate stood at 5.25 % at the time of the case management and for some months before it.

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

### **Findings in Fact**

10. The parties entered into a private residential tenancy at the property with effect from 23rd November 2018.

11. The monthly rent payable in respect of this tenancy is £450 and this increased to £480 per month with effect from June 2021.

12. The Applicant understands that the Respondent is still occupying the let property although in the week before 2<sup>nd</sup> February 2024 it has been noted that items are piled up outside the property and it is considered that the Respondent may be in the process of moving out of the property.

13. The Respondent has not handed the keys of the property back to the Applicant or his representative.

14. The let property is a two-bedroom property and the Respondent occupies along with her child.

15. The Respondent and her child are believed to be in good health and the Respondent is in part time work.

16. The Respondent pays the rent with the assistance of housing benefit paid to her directly and rent arrears have accrued in terms of the tenancy.

17. Rent arrears have accrued for some time during the tenancy and have reached £1110 as at 2<sup>nd</sup> February 2024 and no rent has been paid by the Respondent since November 2023.

18. The Respondent has not communicated with the Applicant's representative regarding the rent arrears which are known to her.

19. The sum of £1110 is lawfully due to the Applicant by the Respondent.

20.The tenancy agreement at clause 8 allows for interest to be applied to late payments of rent which are not paid within 14 days of the date when they fell due to be paid.

21.The tenancy agreement allows for an interest rate of 5 % above Bank of England base rate to be applied to late payments of rent as set out in paragraph 20 above.

22.As of 2<sup>nd</sup> February 2024 the Bank of England base rate is 5.25% and has been at that rate for a number of months.

### **Reasons for Decision**

26. The Tribunal considered it appropriate to make the payment order as requested as the Respondent is aware of the level of rent arrears and has paid no rent since November 2023. Interest at 5% above bank of England base rate ( giving an interest rate of 10.25%) was added to the order given the terms of clause 8 of the tenancy agreement which allows for this.

### **Decision**

The Tribunal granted a payment order in favour of the Applicant and against the Respondent in the sum of one thousand one hundred and ten pounds only (£1110.00) together with interest at the rate of 10.25 per cent per year until paid.

### **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

**2.2.24**  
Date