



**Written Decision 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/23/1403**

**Re: Property at 23 Henderson Street, Coatbridge, North Lanarkshire, ML5 1BL (“the Property”)**

**Parties:**

**Mrs Stella Avbunudje, 233 Bennetts Caste Lane, Dagenham, RM8 3YL (“the Applicant”)**

**Miss Danielle Maclean, Mr Kevin White, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Member:**

**Karen Kirk (Legal Member) and David MacIver (Ordinary Member)**

This Hearing was a Case Management Discussion and concerned an Application under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for civil proceedings in relation to a private residential tenancy. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order against the Respondents for the sum of £9000.**

**Attendance**

The Applicant attended personally.

The Respondents were not in attendance and had not entered into appearance. They had both been served by advertisement and the Tribunal held a copy of those certificates of service.

## **Preliminary Matters**

The Applicant explained that the Respondents abandoned the property in September 2023. She found same unkempt and vandalised. She was notified by the Local Authority in September 2023 that the property was in a poor state and there were concerns, She then decided to travel to the property.

On the 8<sup>th</sup> November 2023 she lodged an email setting out the rent arrears for the property were as at the end date of the tenancy following termination £9000. She also put a note of additional repairs costs following the damage she found. The Applicant sought that the sum sought in the application be increased from £5250 to £900 on the basis of the email and notice to the Tribunal. The Tribunal amended the sum sought to £9000.

There were no other preliminary matters arising.

## **Matters Raised**

The Tribunal confirmed with the Applicant that that rent due in terms of the tenancy per calendar month was £750. No payments under the tenancy had been paid since 2 payments of rent made in August and September 2022 after the tenancy commenced. No communication had been received regarding abandonment or termination of the tenancy until the Applicant received correspondence from the local authority raising concerns. As at 10<sup>th</sup> September 2023 rent due was £9000.

The Applicant's representative confirmed that a payment order for non payment to the amount of £9000 was sought.

There were no other matters arising.

## **Reasons for Decision and Findings in Fact**

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings and had not challenged same by written representations or attendance.**
- 2. The Applicant sought an Order for non payment of rent to the amount of £9000.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.**
- 4. The Tribunal was satisfied that the relevant tenancy was in terms of the 2016 Act, a Private Residential Tenancy properly constituted and dated 10<sup>th</sup> August 2022. The Tribunal was further satisfied that the rent due was £750 per month and on the evidence before the Tribunal no rental payments had been received to date under this said Tenancy since September 2022. Two rental statements had been lodged by the**

**Applicant evidencing the rent due and significant submissions regarding rent due were made by the Applicant at the hearing, who was credible and found the property in September 2023 to be abandoned.**

- 5. Accordingly in terms of Section 71 of the 2016 Act the Tribunal granted a payment order against the Respondent for the sum of £9000**

### **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.**

# **K.Kirk**

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**Legal Member/Chair**

**26<sup>th</sup> January 2024**  
**Date**