



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 71 Private Housing  
(Tenancies) 9Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/23/2312**

**Property at 71 3F3 Albert Street, Dundee, DD4 6NZ (“the Property”)**

**Parties:**

**Sweet Tanuki Limited, 13 Prior Avenue, Sutton, SM2 5HX (“the Applicant”)**

**Miss Francisca Nwachukwu, Mr Rafael Brito, UNKNOWN, UNKNOWN, (“the Respondents”)**

**Tribunal Member:**

**Josephine Bonnar (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order should be granted against the Respondents in favour of the Applicant.**

**Background**

1. The Applicant seeks a payment order in relation to unpaid rent. A tenancy agreement and rent statement were lodged with the application. The application was served on the Respondents by Sheriff Officer on 27 October 2023. All parties were notified that a case management discussion would take place by telephone conference call on 5 December 2023 at 2pm. On 9 November 2023, the Applicant’s representative notified the Tribunal that the Respondents had vacated the property and withdrew the related eviction application under Chamber reference EV/23/2703
2. The CMD took place on 5 December 2023. The Applicant was represented by Ms Forshall. The Respondents did not participate and were not represented. Ms Forshall told the Legal Member that the letting agent had attended at the property on 6 November 2023 to carry out a routine inspection. They found the

property unoccupied. The Respondents had moved out and taken all their belongings. They had locked the door and put the keys through the letterbox. There had been no contact from them since this date. However, the letting agent had inspected the property during the month of October and the Respondents had still been in residence at that time. They have treated the tenancy as having ended on 6 November 2023.

3. The Legal Member noted that the application had been served at the property by Sheriff Officer on 27 October 2023. In the absence of any evidence to the contrary, it appears to have been validly served. Ms Forshall stated that the Applicant understands that the Respondents may still be living in Dundee, but they don't have a current address. The Legal Member noted that the sum specified in the application is £3340.99. As the Applicant had not submitted an updated rent statement or a request to amend the application prior to the CMD, the application could not be amended in terms of Rule 14A of the Procedure Rules. Ms Forshall advised that the arrears at the end of the tenancy were £5483.32, and that the Applicant was seeking an order for the whole sum due. Following discussion, the Legal Member determined that the application should proceed to a further CMD and noted that the Applicant would lodge an updated rent statement and request to amend the application prior to this taking place. As the address of the Respondents is unknown, the application is now proceeding by way of advertisement on the Tribunal website. On 7 December 2023, the Applicant submitted an updated rent statement and request to amend the sum claimed in the application to £5483.31.
4. The parties were notified that a further CMD would take place by telephone conference call on 14 March 2024 at 10am. The Applicant was represented by Ms Finnie. The Respondents did not participate.

### **Case Management Discussion**

5. Ms Finnie said that her company (Prop-Op) took over the management of the property earlier this year. The address of the Respondents is still unknown and there has been no contact from them or payments to the rent account. The property was left in poor condition by the Respondents and the tenancy deposit was applied to the cost of re-instatement. This included cleaning, painting, and replacing damaged furniture. Ms Finnie confirmed that a payment order is sought for the arrears of £5483.31.

### **Findings in Fact**

6. The Applicant is the owner and landlord of the property.
7. The Respondents were the tenants of the property in terms of a private residential tenancy agreement. The tenancy ended on 6 November 2023
8. The Respondents were due to pay rent at the rate of £975 per month.

9. The Respondents owe the sum of £5483.31 in unpaid rent to the Applicant.

### **Reasons for Decision**

10. The application was submitted with a tenancy agreement and rent statement. In terms of the agreement, the Respondent was due to pay rent at the rate of £975 per month. The Applicant submitted an updated rent statement prior to the CMD. From the documents submitted and the information provided at the CMD, the Tribunal is satisfied that the Respondents owe the sum of £5483.31 in unpaid rent and that the Applicant is entitled to a payment order for this sum.

### **Decision**

11. The Tribunal determines that an order for payment in the sum of £5483.31 should be granted.

### **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.**

**Josephine Bonnar, Legal Member**

**14 March 2024**