



**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/23/4425**

**Re: Property at 57A Crossgate, Cupar, Fife, KY15 5AS (“the Property”)**

**Parties:**

**Mr Robbie Adams, The Coachouse, 57 Crossgate, Cupar, Fife, KY15 5AS (“the Applicant”)**

**Mr Steven Wright and Mrs Jacqueline Ann Wright, 57A Crossgate, Cupar, Fife, KY15 5AS (“the Respondents”)**

**Tribunal Members:**

**Shirley Evans (Legal Member) and Sandra Brydon (Ordinary Member)**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondents in favour of the Applicant in the sum of ONE THOUSAND FIVE HUNDRED POUNDS STERLING and made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987. 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 Respondents.**

### **Background**

- 1. This is an application for an order for payment of rent arrears under 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 Private Residential Tenancy Agreement with a start date of 1 March 2023 and a rent statement to December 2023.**

3. On 13 February 2024 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 26 March 2024. The Respondents required to lodge written submissions by 5 March 2024. This paperwork was served on the Respondents by William Wywalec, Sheriff Officer, Kirkcaldy on 14 February 2024 and the Executions of Service were received by the Tribunal administration.
4. On 18 March 2024 the Applicant’s solicitor forwarded text messages between the Applicant and the Respondents.

### **Case Management Discussion**

5. The Tribunal proceeded with the CMD on 26 March 2024 by way of teleconference. Mr Hann, from Hann and Co appeared for the Applicant. Mr Adams was also in attendance. Mr Wright also appeared on his own behalf and on behalf of his wife Jacqueline Wright. The case was heard with an arrears action under reference FTS/HPC/EV/23/4423.
6. On the morning of the CMD the Tribunal received applications for a Time to pay direction from the Respondents offering to pay the arrears off at £250 per month. The Respondents also lodged a letter dated 4 February 2024 from Brian Smith, Technical Officer (Private Housing Standards) from Fife Council.
7. The Tribunal had before it the Private Residential Tenancy Agreement with a start date of 1 March 2023, the rent statement to December 2023, the texts between the parties and the letter dated 4 February 2024 addressed to the Applicant from Brian Smith, Technical Officer (Private Housing Standards) from Fife Council. The Tribunal noted the terms of these documents.
8. The Tribunal clarified with Mr Hann that the Respondents had made an application to pay the arrears off at £250 per month. He submitted that no further rent had been paid since December 2023 as shown in the rent statement. Arrears to the end of March had increased from £1500 to £3150. He moved the Tribunal to allow the sum to be increased and for a payment order of £3150. Mr Hann did not have instructions on the applications. As the Tribunal was planning to adjourn to consider the current application and the eviction application, the Tribunal asked Mr Hann to take instructions from the Applicant.
9. Mr Wright clarified that he was willing to pay the arrears at £250 per month. He accepted the arrears were £3150, but referred to the poor state of repair of the Property as shown in the letter from Fife Council.

10. The Tribunal adjourned. After the adjournment Mr Hann confirmed the Applicant was willing to accept payments towards the arrears of £250 per month.

### **Findings in Fact**

11. The Applicant and the Respondents entered into a Private Residential Tenancy Agreement dated 1 March 2023. In terms of Clause 7 of the tenancy agreement the Respondents agreed to pay £550 per month in rent.
12. The Respondents are in arrears of rent. The arrears to December 2023 were £1500. Arrears to the end of March have increased to £3150.

### **Reasons for Decision**

13. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Hann and by the Respondent.
14. The Tribunal refused Mr Hann's motion to amend. Although the arrears were admitted by the Respondents the Tribunal considered the motion made was late and that the Applicant had had ample opportunity before the CMD to apply for such an amendment timeously in terms of Rule 14A.
15. The Tribunal noted that parties were in agreement with regard to the material facts relating to the tenancy agreement, the rent and the amount of the arrears. The Applicant had produced evidence of non- payment of rent with reference to the rent statement. The Respondent admitted the arrears and did not oppose the Application, having lodged an application for a Time to Pay Direction of £250 per month. The Tribunal was satisfied on the basis of the documents, together with parties' submissions that the order for payment in favour of the Applicant be granted.
16. The Tribunal noted the terms of the applications for a time to pay direction lodged by the Respondents. Mr Wright stated he could make payments of £250 per month. The Applicant was willing to accept that offer. The Tribunal was therefore satisfied that in terms of Section 1 of the Debtors (Scotland) Act 1987 that it was reasonable for the Respondents' application for a Time to Pay Direction to be granted.

### **Decision**

17. The Tribunal granted an order for payment of £1500 with a Time to Pay Direction for payment of £250 per month. The decision of the Tribunal was unanimous.

## **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.

Shirley Evans

A Test Member

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**Legal Member**

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**Date**