



**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 and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

Chamber Ref: FTS/HPC/CV/23/4573

Re: Property at 15 Kinnaird Street, Dundee, DD3 6NX (“the Property”)

Parties:

Mr Wojciech Polkowski, 206 Strathtay Road, Perth, PH1 2ND (“the Applicant”)

Mr Kieran Gray, 15 Kinnaird Street, Dundee, DD3 6NX (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Gordon Laurie (Ordinary Member) (“the tribunal”)

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondent for payment of the sum of SEVEN THOUSAND NINE HUNDRED AND TWENTY POUNDS (£7920) to the Applicant.**

**Background**

1. This is an application for payment. The application is dated 18 December 2023 and was accepted for determination on 19 January 2024. Subsequent to this a further application form was submitted which was dated 31 January 2024 and Ms Ramzan, the Applicant’s representative, confirmed that the purpose of this was to amend the sum stated as rent arrears from ££5900 in the earlier application form to £5760. She stated that the later form was not to be considered a separate application.
2. The application contained a request that the sum should attract interest at the rate of 4.25% from the date of the order until payment.

3. A case management discussion was held by teleconference on 17 April 2024. An application in respect of an eviction order was also considered (FTS/HPC/EV/23/4572). Ms Aneysa Ramzan, trainee solicitor, represented the Applicant who was also in attendance. There was no appearance by the Respondent and the tribunal had sight of a Sheriff Officer's Certificate of Intimation confirming that notice of the case management discussion had been served on the Respondent on 11 March 2024.
4. The legal member outlined the purpose of a case management discussion.
5. No written representations had been submitted by the Respondent.
6. The Applicant's representative had submitted an updated rent statement on 13 April 2024.

### **Preliminary Matters**

7. Ms Ramzan referred the tribunal to an updated rent statement which she had lodged on 3 April 2024 together with a submission seeking the Tribunal to exercise its discretion under rule 14 of the Rules to amend the sum being sought from £5760 to £7920 which was the sum of arrears of rent as set out in the updated rent statement.
8. The tribunal noted the terms of a copy sent email which confirmed that a copy of the submission and the updated rent statement had been sent to the Respondent on 3 April 2024.
9. The tribunal determined that the Respondent had notice of the proposed amendment and had chosen not to make representations. In the circumstances, the tribunal allowed the sum being sought to be amended to £7920.

### **10. Documents before the tribunal**

9.1 Private Residential Tenancy Agreement between the Applicant and the Respondent showing the start date of the tenancy to be 22 December 2022 and the monthly rent to be £720.

10.2 Rent arrears statement showing the arrears of rent as at 28 March 2024 to be £7920.

10.5 Rent arrears statement showing the arrears of rent as at the date of application to be £5760

### **11. Findings in Fact**

10.1 The Applicant and the Respondent entered into a Private Residential Agreement for the Property with the tenancy commencing on 22 December 2022.

10.2 The monthly rent for the Property is £720 and the Respondent is contractually bound to pay this.

10.3 As at the date of submission of the application, the rent arrears amounted to £5760.

10.6 As at 28 March 2024, the rent arrears amounted to £7920.

### **Reasons**

- 11 The tribunal considered that there was no reason to adjourn the determination of the application to a Hearing.
- 12 The tribunal accepted that the Respondent owed £7920 according to the rent statement before it. The tribunal accepted that the Respondent had an obligation, in terms of the private residential tenancy agreement, to pay the rent and that the rent statement was accurate.
- 13 The appropriate standard of proof is the balance of probabilities and the tribunal considered that this threshold had been crossed and that it was appropriate to grant the payment order. It accepted the documentary evidence before it.
- 14 The private residential tenancy agreement contained no contractual provision in respect of interest and the tribunal made no order in this regard.

### **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.

Martin J. McAllister  
Legal Member  
18 April 2024