



**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/23/4339**

**Re: Property at Flat 10, 10 South Carron Wynd, Edinburgh, EH6 7FP (“the Property”)**

**Parties:**

**PFPC MMR 1 LP, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Mr Greg Pearson, Flat 10, 10 South Carron Wynd, Edinburgh, EH16 7FP (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Eileen Shand (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- Background

This is an application for an order for payment of rent arrears alleged to be owed by the Respondent in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 2pm on 30 May 2024, by teleconference. The Applicant was represented on the call by Mr O’Donnell of Patten & Prentice LLP, solicitors. The Respondent was not on the call or represented.

Notice of the CMD, along with a copy of the application, was served on the Respondent by sheriff officers on 18 April 2024. There has been no communication

from him since then. The Tribunal concluded that he was aware of the CMD, but had chosen not to attend or oppose the application; and that it was fair to proceed in his absence.

- Findings in Fact

The following facts set out in the application formed the basis for the Tribunal's decision:

1. The Respondent lets the Property from the Applicant in terms of a private residential tenancy agreement with a start date of 28 September 2022.
2. In terms of that tenancy agreement, at the outset, rent of £825 was due on the first of each month.
3. The rent was increased to £849.75 per month from 4 July 2023 by notice dated 1 April 2023.
4. As at the date of the CMD, the arrears of rent were £12,469.89.
5. The tenancy agreement does not make any provision for interest to be applied to arrears of rent.

- Reasons for Decision

6. The Applicant had applied to increase the sum sought to £12,469.89, in terms of Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017. There having been no opposition to this, the Tribunal granted the application.
7. The sum sought (as amended) is owed by the Respondent to the Applicant. An order for payment of that amount should therefore be made.

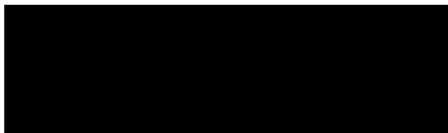
8. The Applicant requested that interest at the rate of 4% p/a be applied to the award. The Tribunal declined to do so, on the basis that there was no provision within the tenancy agreement for interest to be charged on overdue rent. The matter proceeds conjoined with an application for the Respondent's eviction, which was also granted. It is clear that the Respondent is unable to pay the sum sought and, in those circumstances and alongside his being evicted from the Property, the Tribunal considered it would be unfairly punitive for it also to apply interest to the rent arrears.

- Decision

**Order made for payment by the Respondent to the Applicant of the sum of TWELVE THOUSAND, FOUR HUNDRED AND SIXTY-NINE POUNDS AND EIGHTY-NINE PENCE STERLING (£12,469.89).**

#### **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.**



**Legal Member/Chair**

**30<sup>th</sup> May 2024**

**Date**