



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/23/4657**

**Re: Property at 26 Willow Road, Mayfield, Dalkeith, EH22 5LN (“the Property”)**

**Parties:**

**Ms Jacqui Furneaux, Flat 65 Central Quay North, Broad Quay, Bristol, BS1 4AU (“the Applicant”)**

**Miss Megan Walker (now Bayri), 26 Willow Road, Mayfield, Dalkeith, EH22 5LN (“the Respondent”)**

**Tribunal Members:**

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

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicants in the sum of SEVEN THOUSAND ONE HUNDRED AND EIGHTY SEVEN POUNDS AND FORTY FOUR PENCE (£7187.44) STERLING. 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 Respondent.**

**Background**

1. This is an action for recovery of rent arrears raised in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a tenancy agreement and AT5 dated 10 February 2016 between the Applicant and the Respondent, a

letter dated 21 September 2020 from Neil Reid Property to the Respondent, emails from Neil Reid Property dated 21 and 28 December 2023 and 11 January 2024 to the Respondent, an email dated 14 January 2024 from the Respondent to Neil Reid Property, emails dated 17 January 2024 between the parties, an email dated 22 January 2024 from Neil Reid Property to the Respondent, an email dated 23 January 2024 from the Respondent to Neil Reid Property and a rent statement.

3. On 18 June 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 29 July 2024. The Respondent required to lodge written submissions by 9 July 2024. This paperwork was served on the Respondent by, Christopher Andrew, Sheriff Officer, Edinburgh on 19 June 2024 and the Execution of Service was received by the Tribunal administration.
4. On 25 June 2024 the Respondent lodged written representations.
5. On 23 July 2024 the Applicant’s agent, Neil Reid Property emailed the Tribunal with a rent statement to the 15 August 2024 showing arrears of £7629.57.

### **Case Management Discussion**

6. The Tribunal proceeded with the CMD on 29 July 2024 by way of teleconference. The Applicant was represented by Neil Reid from Neil Reid Property. There was no appearance by or on behalf of the Respondent despite the teleconference starting 5 minutes late. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence. The case was heard with an application for eviction under reference FTS/HPC/EV/24/0564.
7. The Tribunal had before it the tenancy agreement and AT5 dated 10 February 2016 between the Applicant and the Respondent, the letter dated 21 September 2020 from Neil Reid Property to the Respondent, emails from Neil Reid Property dated 21 and 28 December 2023 and 11 January 2024 to the Respondent, the email dated 14 January 2024 from the Respondent to Neil Reid Property, emails dated 17 January 2024 between the parties, the email dated 22 January 2024 from Neil Reid Property to the Respondent, the email dated 23 January 2024 from the Respondent to Neil Reid Property, the

rent statement to 18 August 2024 and the Respondent's written submissions. The Tribunal considered the terms of these documents.

8. Mr Reid explained to the Tribunal that they had not had any rent since November 2023. Arrears were £7187.44. He was looking for arrears to 18 August of £7629.57. He submitted he was seeking that amount as that would be the amount of arrears up to the date they would be able to evict. The Respondent was a long-standing tenant. She had married a Turkish national in June or July 2023 and since then she has advised that as he was applying for a visa to live in the UK she has not been entitled to any benefits. She had been working but is on maternity leave having had a baby in December 2023 and claims that she is not in receipt of any benefits. Mr Reid has asked for bank statements from her to show her income, but she has not produced these. On occasions they have applied for rent direct from Universal Credit and every time they have been told she is not entitled to Housing Benefit.
9. Mr Reid explained that his client was being financially impacted by the high level of arrears. The Applicant was having to bear ongoing costs in relation to the tenancy despite not getting any rent. This was having an effect on her mental health.

### **Findings in Fact**

10. The Applicant and the Respondent entered into a Short Assured Tenancy Agreement dated 10 February 2016 in relation to the Property. In terms of Clause 5.1 the Respondent agreed to pay the Applicant a calendar monthly rent of £630.
11. By letter dated 20 September 2020 the rent increased to £822.73.
12. The Respondent has fallen into arrears of rent. The last payment to account was of £822.73 on 14 November 2023. The Respondent has made no payments of rent since. Current arrears are £7187.44.

### **Reasons for Decision**

13. The Tribunal considered the issues set out in the application together with the documents lodged in support and the submissions of the Respondent. Further the Tribunal considered the submissions made by Mr Reid.

14. The Tribunal noted terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to £7629.57 18 August 2024. The Tribunal were not however prepared to grant an order for arrears to 18 August 2024 as it could not be certain that arrears would accrue to that level. The Applicant produced evidence of persistent non- payment of rent. The Respondent had not disputed the application and had made it clear she was not in a position to pay rent in her written submissions. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Reid's submissions that the order for payment in favour of the Applicant be granted for the sum of £7187.44.

### **Decision**

15. The Tribunal granted an order for payment of £7187.44. 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

4 August 2024

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Legal Member

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Date