



**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/24/1289**

**Re: Property at 17A/5 Smith's Place, Edinburgh, EH6 8NT (“the Property”)**

**Parties:**

**Raimes Clark & Company Limited, 19 Smith's Place, Edinburgh, EH6 8NU (“the Applicant”)**

**Christopher Dickson, 17A/5 Smith's Place, Edinburgh, EH6 8NT (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member) and Gordon Laurie (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 Applicant in the sum of FIVE THOUSAND NINE HUNDRED AND FORTY-SIX POUNDS (£5946) STERLING with interest at 4% per annum. 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 rent arrears and interest raised in terms of 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 between the parties dated 20 July 2021 and a rent statement to 1 March 2024.

3. On 10 April 2024 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 5 July 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 26 July 2024. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 13 August 2024. This paperwork was served on the Respondent by Dale G Barratt, Sheriff Officer, Edinburgh on 8 July 2024 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not make any representations.

### **Case Management Discussion**

6. The Tribunal proceeded with a CMD on 13 August 2024 by way of teleconference. Mr Gray from Gilston Gray, solicitors appeared for the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence. The case was heard together with a case for eviction under case reference number FTS/HPC/EV/24/1288.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 20 July 2021 and the rent statement to 1 March 2024. The Tribunal considered these documents.
8. Mr Gray moved the Tribunal to grant a payment order for £5946 plus interest at 4% being half the judicial rate of interest. Although there was no contractual right to interest, he submitted that interest would compensate his clients to some extent for the loss of the use of the rental income. Arrears had increased to £8921 as at 1 August 2024, being over 10 months of arrears. The last payment to account was for £4 in October 2023. The Respondent had not engaged at all with the Applicant’s agents despite the pre action requirement letters.

### **Reasons for Decision**

9. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent

statement. Further the Tribunal considered the submissions made by Mr Gray.

10. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicant had produced evidence of persistent non-payment of rent. The Respondent had not disputed the application. Further the Tribunal was satisfied that 4% interest was a reasonable rate to request in the circumstances and accordingly allowed interest at the rate of 4% in terms of Rule 41A of the Regulations. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Gray's submissions that an order for payment in favour of the Applicant be granted with interest at 4%.

### **Decision**

11. The Tribunal granted an order for payment of £5946 with interest at 4% per annum from the date of Order in favour of the Applicant.

### **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.**

# S. Evans

**13 August 2024**

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Legal Chair

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Date