



**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**

**Chamber Ref: FTS/HPC/CV/24/0741**

**Re: Property at 19 Blaikies Mews, Dundee, DD3 7UN (“the Property”)**

**Parties:**

**Craigowl Investments Limited, 4A Albert Street, Dundee, DD5 4JS (“the Applicant”)**

**Mrs Claudia Hogan, 19 Blaikies Mews, Alexander Street, Dundee, DD3 7UN (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £6375 should be granted in favour of the Applicant.**

**Background**

1. By application received on 15 February 2024, the Applicant submitted an application seeking a payment order brought in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for payment of £5775 in respect of rent arrears which were alleged to be due by the Respondent to the Applicant.
2. Attached to the application form were:

- (i) copy private residential tenancy agreement between Mr Michael Callachan, a director of the Applicant company, and the Respondent, which commenced on 25 May 2022.
  - (ii) Copy rent statement showing arrears of rent due by the Respondent to be £5775 as at February 2024.
- 3. In an email of 13 March 2024, Mr Callachan stated that the total rent arrears owed by the Respondent now totalled £6375.
- 4. The application was accepted on 10 April 2024.
- 5. Notice of the CMD scheduled for 12 September 2024, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the tribunal on 15 August 2024. The Respondent was invited to submit written representations by 30 August 2024.
- 6. No written representations or time to pay application were received from the Respondent prior to the CMD.

### **The CMD**

- 7. A CMD was held by teleconference call on 12 September 2024. Both Mr Callachan and his wife Mrs Jenene Callachan, who is a shareholder in the applicant company and is responsible for its day to day running, were present on the teleconference call and represented the Applicant. The Respondent was not present or represented on the teleconference call. The tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. She did not attend the teleconference call, however, and no telephone calls, messages or emails had been received from her.
- 8. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a CMD had been duly complied with. The tribunal therefore proceeded with the CMD in the absence of the Respondent.

### **The Applicant's submissions**

- 9. Mr Callachan told the tribunal that no rent had been paid by the Respondent since September 2023. There had been no communication from the Respondent, despite attempts to contact her. The Applicant had made a number of attempts to agree a payment plan with the Respondent, but these had been unsuccessful. As at 7 September 2024, the outstanding arrears were £9375. The Applicant sought a payment order for the outstanding arrears.

10. The tribunal chairperson noted that as at the time the application was accepted, the arrears which had been notified to the tribunal totalled £6375, as advised on 13 March 2024. Should the Applicant wish the tribunal to consider granting an amount in excess of this, it would be necessary to seek to amend the application under rule 14A of the tribunal rules. This would require the Applicant to request such an amendment by intimating this to the tribunal and to the Respondent at least 14 days prior to a CMD or hearing. Therefore, it would be open to the Applicant either to seek an order for £6375, and potentially make another future application for any further arrears, or to seek an adjournment of the present application in order to seek an amendment to increase the sum claimed.

11. Having considered this, Mr Callachan asked the tribunal to grant a payment order for the sum of £6375.

### **Findings in fact**

12. The tribunal made the following findings in fact:

- The Applicant owns the property.
- The Applicant is the registered landlord for the property
- There is a private residential tenancy in place between Mr Callachan and the Respondent. The tenancy commenced on 25 May 2022.
- The rent due under the tenancy is £600 per month due in advance on the 7<sup>th</sup> of each month.
- The Respondent owed the applicant £6375 as at 13 March 2024.

### **Reasons for decision**

13. In the absence of any written representations from the Respondent disputing the facts, or any appearance by her at the CMD, the tribunal considered that it was able to make sufficient findings to determine the case, and that to make a decision without a hearing would not be contrary to the interests of the parties. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.

14. On the basis of all the evidence before it, the tribunal was satisfied that the Respondent owed £6375 in rent to the Applicant as at the date the application was accepted.

### **Decision**

The tribunal grants an order for payment by the Respondent to the Applicant for the sum of £6375.

## **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 O'Neill**

**Legal Member/Chair**

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**12 September 2024**  
**Date**