



**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/23/3488**

**Re: Property at 78 Stock Avenue, Paisley, PA2 6AS (“the Property”)**

**Parties:**

**Mrs Jean Murray, 54 Thorndene, Elderslie, Johnstone, PA5 9DB (“the Applicant”)**

**Mr Scott Anderson, 78 Stock Avenue, Paisley, PA2 6AS (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Mary Lyden (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £5000.00.**

**Background**

1. By application dated 28 September 2023 the Applicant applied to the Tribunal for an order for payment by the Respondent to the Applicant in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant submitted a copy of the tenancy agreement together with Bank Statements, and correspondence with the Respondent in support of the application.
2. By Notice of Acceptance dated 22 November 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 30 November 2023.

4. A CMD was held by teleconference on 24 January 2024. The Applicant was represented by Mr Stephen Nicolson. The Respondent attended in person. The Applicant's representative asked the Tribunal to increase the sum claimed to £5000.00. The Respondent disputed the sum claimed was due and explained that the property had been flooded on numerous occasions and that there were issues with the hot water in the property which meant he had to use a kettle to heat water. The Respondent also said that there was water and sewage ingress into the walls of the property and that he could no longer use the second bedroom. He also said that ceilings had caved in. The Respondent said that the issues had been reported to the Applicant but nothing had been done about the problems. The Respondent said he had to replace a damaged mattress and bedding at his own expense and had also replaced the heating system. For the Applicant Mr Nicolson said that the Applicant had difficulty obtaining access to the property to establish what repairs were needed as the Respondent was refusing access. The Respondent said that the issues with the property had been ongoing for about a year and a half and that he had been withholding rent because of the condition of the property. He said that he was keeping some rent money in an account.
5. As the facts were disputed the Tribunal determined to adjourn consideration of the application to a hearing and issued Directions to the Respondent to submit a skeleton argument which summarised the submissions to be made by the Respondent at the hearing and in particular should make it clear if the Respondent was seeking a reduction in the rent over the period since the alleged issues with the property had occurred or was withholding rent until the alleged issues had been resolved or both. The Respondent had to comply with the Directions by 1 March 2024. The Respondent failed to comply with the Directions.
6. By email dated 18 August 2024 the Applicant provided the Tribunal with a rent statement confirming the rent due by the Respondent remained at £5000.00.

### **The Hearing**

7. A hearing was held by teleconference on 3 September 2024. The Applicant attended in person. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper notice of the date and time of the proceedings had been given to the Respondent determined to proceed in his absence.
8. The Tribunal noted that the Respondent had failed to comply with its Directions dated 24 January 2024. The Tribunal also noted from the Applicant that the Respondent had been evicted from the property following the Tribunal's decision in case reference FTS/HPC/EV/23/3485. The Applicant said that the Respondent had never reported any damage to the property during the tenancy and had made gaining access to the property difficult. The Applicant said that the property was not in nearly as bad condition as the Respondent had tried to make out. She said that after being served with the Notice to Leave the Respondent had stopped paying rent. The Respondent referred the Tribunal to the Rent statement provided and confirmed that the Respondent had not paid

a deposit. She said the sum of £5000.00 remained outstanding.

### **Findings in Fact**

9. The Respondent occupied the property from February 2020 and commenced a Private Residential tenancy of the property on 1 August 2022.
10. The rent for the property was £500.00 per calendar month.
11. As at 1 January 2024 the Respondent owed rent of £5000.00.
12. The Respondent did not pay a deposit at the commencement of the tenancy.

### **Reasons for the Decision**

13. The Application was continued to a hearing as the Respondent claimed that he was either withholding rent or was entitled to a reduction in rent due to water ingress and other issues at the property. Due to the lack of clarity in the Respondent's oral representations at the CMD the Tribunal issued Directions to the Respondent requiring him to provide a skeleton argument of the submissions he intended to make at the hearing and to do this by 1 March 2024. The Respondent failed to comply with the Tribunal's directions. Despite being provided with the date and time of the hearing the Respondent failed to attend or be represented. The Tribunal was satisfied that the Respondent had been given every opportunity to put forward his opposition to the application but had failed to do so. The Applicant confirmed that the rent due by the Respondent remained unpaid. In the circumstances the Tribunal was satisfied the Applicant was entitled to an order for the sum sought.

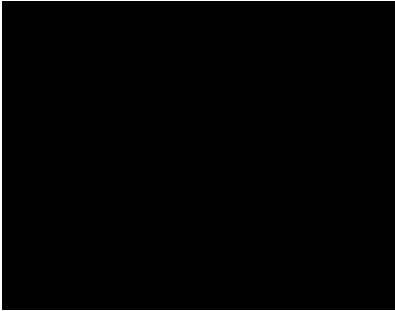
### **Decision**

14. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £5000.00.

### **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.**



**Graham Harding  
Legal Member/Chair**

**3 September 2024  
Date**