



**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) 2016 Act**

**Chamber Ref: FTS/HPC/CV/23/3571**

**Re: Property at 53 Haco Street, Largs, North Ayrshire, KA30 9BG (“the Property”)**

**Parties:**

**John Campbell, 14 Douglas Street, Largs, North Ayrshire, KA30 8PS (“the Applicant”)**

**Kirsty McKinnon, 39 Kelvin Street, Largs, North Ayrshire, KA30 9BD (“the Respondent”)**

**Tribunal Members:**

**Joel Conn (Legal Member)**

**Decision**

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

1. This is an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears and sums for labour and materials for work said to have been carried out after termination of the PRT. The PRT in question was by the Applicant to the Respondent commencing on 28 November 2018.
2. The application was undated but lodged with the Tribunal on 9 October 2023. The application sought payment of arrears of £1,432.19 (being the arrears due as of the termination of the Tenancy on 9 March 2023) and was accompanied by a rent statement showing missed rental payments of December 2022 and January 2023 of £615/month each plus missed rental of £202.19 for the part month from 28 February to 9 March 2023. The rent stated in the Tenancy

Agreement lodged was £600 a month but parties did not dispute that the rent had been increased prior to December 2022 to £615 a month.

3. The application further sought £400 in labour costs and £98.95 for materials, for work (principally painting) that the Applicant says was carried out at the Property after the Respondent vacated, so as to repair damage.
4. Prior to the initial case management discussion (“CMD”) I received from the Respondent written submissions and documents disputing the labour and material costs.

### **The Hearing and further procedure**

5. The matter called for an initial CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 12 April 2024 at 14:00. I was addressed by the parties.
6. The Respondent confirmed that she did not dispute the arrears and only disputed the labour and material costs. In regard to the arrears, the Respondent explained that she would wish a Time to Pay order but had not submitted an application to date as she was not willing to admit the full sum claimed in the application (as that included the labour and material costs). She also said that she was not, as at the CMD, yet able to consider what offer she would make to cover the arrears alone.
7. I discussed the disputed labour and materials costs at length. The Applicant confirmed they were restricted to fixing walls where shelving had been removed, and painting walls where adhesive decorative transfers had previously been applied and then removed by the Respondent. The Respondent had added both the transfers and shelves to the Property as part of a broader redecoration, further to an agreement with the Applicant that she may decorate the Property as she wished. (Parties were agreed that there was no written consent to these alterations, as required by the Tenancy Agreement, but the Applicant did not dispute that he had been satisfied with the Respondent decorating the Property and had been happy with her quality of the decorative work.) As for why the transfers and shelves were removed, the Respondent accepted she had not asked the Applicant whether or not she needed to remove them, and simply assumed that she was required to do so. The Applicant said that he would not have objected to them having been left and, had they been left, he would not have sought any payment from the Respondent. He accepted, however, that he had not told the Respondent that she may leave them.
8. I asked the Applicant to address me on the clause of the Tenancy agreement he relied upon. He said that he was seeking the costs of returning the Property to the condition that it had been at the start of the Tenancy but could not direct me to a clause. He first suggested it was clause 17, regarding the Repairing Standard, but could not identify how the issues related to that. I asked him to address me on clause 23 which required the tenant to “remove all... her belongings when the Tenancy ends” and clause 27 on alterations which was

silent on any works to remove and make good after authorised alterations. After considering the matter, the Applicant stated that he would concede the claims for labour and materials and sought only the arrears. He confirmed that this was an unconditional concession.

9. I confirmed that the Respondent remained unopposed to an order for payment of the arrears of £1,432.19 but wished time to pay. She confirmed this was the case.
10. I continued the CMD to a diet to be set, to allow the Respondent to submit a time to pay application in regard to the £1,432.19. I issued a Notice of Direction with a timetable for providing unsuitable dates for the continued CMD and allowing the Respondent two weeks for a time to pay application, and the Applicant two weeks thereafter to accept it or object to it. A continued CMD was set for 4 September 2024 and, further to the Directions, a time to pay application was received on 24 April 2024 and a detailed objection on 14 May 2024.
11. In light of the Time to Pay application and objections being received, and in consideration that date assigned for the continued CMD was still a number of months off, I asked the Tribunal clerk to correspond with the parties as to whether either insisted on the continued CMD or whether they would be satisfied for my decision to be made under Rule 18 (that is, without a hearing). Both responded by email to say that they were satisfied for a decision to be made without a hearing and I discharged the continued CMD of 4 September 2024.
12. At the initial CMD, no motion was made for expenses or interest. The application was silent on interest. In the Note for the initial CMD, I requested that if interest was to be sought by the Applicant, he should provide submissions on this alongside any submissions on the time to pay application. He made no such submission. I thus note that no interest has been sought in the application, or since at the CMD or in written submissions.
13. This decision is made on 17 June 2024 under Rule 18 without a hearing as I am satisfied to there being such facts that are not disputed by the parties to allow me to make sufficient findings, and that it is not contrary to the interests of the parties (they both having agreed to a decision without a hearing).

### **Findings in Fact**

14. On or about 27 November 2018 the Applicant let the Property as a Private Residential Tenancy to the Respondent under a lease with commencement on 28 November 2018 (“the Tenancy”).
15. In terms of clause 7 of the Tenancy Agreement, the Respondent required to pay rent of £600 a month in advance on the 28<sup>th</sup> day of each month.
16. Prior to December 2022, the Applicant increased the passing rent due each month, by appropriate procedures, to a figure of £615.00.

17. The Tenancy terminated on 9 March 2023.
18. The Respondent failed to make payments of rent of £615 a month on 28 December 2022 and 28 January 2022.
19. The Respondent failed to make any payment of rent for the period 28 February 2022 to 9 March 2022.
20. Pro-rated rent for 28 February 2022 to 9 March 2022 is £202.19.
21. The Respondent provided no evidence of payment of any part of the said unpaid rent of £1,432.19 demanded by the Applicant and accepted liability for same at the CMD of 12 April 2024.

### **Reasons for Decision**

22. The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. I was satisfied, on the basis of the application and supporting papers, that there were rent arrears of £1,432.19. I was satisfied that it all remained outstanding as of today. In any event, the Respondent conceded this amount was due. I was satisfied that the necessary level of evidence for these civil proceedings had been provided for an order at this figure.
23. I am thus satisfied to make a decision without a hearing under Rule 18 to award the sum of £1,432.19 against the Respondent, being an order for rent arrears under the Tenancy to the termination date of 9 March 2023.
24. As stated above, I did not grant this order at the CMD of 12 April 2024 so as to allow a Time to Pay application to be lodged. The Respondent has made a Time to Pay offer of £10 a month. She explains within the application that she has limited finances, three children, and – in any accompanying email – that her part-time employment was at risk of redundancy. Her financial information listed a figure of just under £50 net free income a month and over £4,000 of other unsecured debts. It was not clear from the application whether a monthly figure paid towards “Credit and loans” serviced all of these debts, and therefore it is not clear whether the excess monthly funds may be required to be paid to other creditors other than the Applicant.
25. The Applicant’s objection was to the time it would take to repay (over 11 years) but he also questioned whether the financial information was solely for the Respondent or for her household (as she confirmed that she lived with her partner). The Respondent did not provide any further submission clarifying that point, and did not amend her offer.
26. In the circumstances, considering the financial information and the offer made, I do not grant a Time to Pay direction. The proposed time for payment is not reasonable and it is appropriate that an “open” order for payment is made for the full amount.

## **Decision**

27. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of £1,432.19.

## **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.**

JoelConn

---

**Legal Member/Chair**

**17 June 2024**

---

**Date**