



**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/24/1927**

**Re: Property at 77C Old Mill Road, Uddingston, Glasgow, G71 7PF (“the Property”)**

**Parties:**

**Miss Holly Martin, 84 Union Street, Hamilton, South Lanarkshire, ML3 6NQ (“the Applicant”)**

**Ms Wendy Smith, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of EIGHT HUNDRED AND TWENTY-NINE POUNDS AND THIRTY-ONE PENCE (£829.31) with interest thereon at the rate of 8% per annum running from the date of the decision.**

**Background**

1. By application dated 29 April 2024 the applicant seeks an order for payment in respect of rent arrears.
2. The applicant lodged the following documents with the application:
  - Copy tenancy agreement
  - Rent accounts for the duration of the tenancy
  - Letter to the respondent dated 29 March 2023
  - Check out inventory report dated 4 August 2023

3. Prior to the case management discussion (“cmd”) the respondent emailed the Tribunal. Brief emails were received on 15 August, 30 August and 16 September 2024. The emails contained criticism of the applicant and stated that the applicant had kept the respondent’s deposit and furniture. The respondent was provided with information regarding the application and how to participate in the cmd.

#### **Case management discussion (“cmd”) – teleconference – 18 September 2024**

4. The applicant was represented by Ms Brehany, solicitor, T C Young solicitors. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd. The Tribunal noted that the respondent had contacted the Tribunal following service by advertisement in terms of rule 6A and been provided with a full set of papers and information on how to participate in the cmd by email. The Tribunal proceeded with the cmd in the respondent’s absence in terms of rule 29.
5. The applicant sought an order for payment in the sum of £829.31. This was less than the figure contained in the application as on the instructions of the respondent the deposit of £800 had been applied to the outstanding arrears. Ms Brehany referred to the check-out inventory report which had been lodged. She stated that the respondent had been given the opportunity to remove all her personal possessions and furniture from the property and had decided not to do so. Ms Brehany submitted that this had no bearing on the outstanding arrears figure. Ms Brehany sought interest on the outstanding amount at the judicial rate of interest.
6. MS Brehany confirmed that no further payments had been received from the respondents since the updated rent statement had been prepared.
7. Mr Lawson confirmed that as per the tenancy agreement which had been lodged the lease commenced on 9 February 2023. The rent due in terms of the lease was £700 per month. The respondent had moved out of the property on 28 July 2023.

#### **Findings in fact**

8. Parties entered into a tenancy agreement with a commencement date of 9 February 2023.

9. Monthly rent due in terms of the agreement was £700.
10. Rent arrears as at 18 September 2024 amount to £829.31.
11. The respondent confirmed by email dated 7 August 2023 that the deposit of £800 paid in advance of the tenancy commencing could be applied to the outstanding arrears leaving the outstanding balance of £829.31.

### **Reasons for the decision**

12. The Tribunal had regard to the application and the documents lodged by the applicant as well as the oral representations at the cmd.
13. The Tribunal took into account that the respondent had not attended the cmd to oppose the application or dispute the sum sought .
14. The Tribunal determined that the brief emails to the Tribunal by the respondent did not disclose a substantive defence to the application as they lacked detail and did not state that the respondent opposed the application.
15. The Tribunal accepted the rent accounts as accurate and had no reason to disbelieve the information provided by the applicant.
16. The Tribunal was satisfied that arrears in the amount of £829.31 were lawfully due as at the date of the cmd.

### **Decision**

The Tribunal determined to grant an order for payment in the sum of £829.31.

### **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.**

# MC Kelly

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Legal Member/Chair

18 September 2024 \_\_\_\_\_  
Date

