



**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 and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) (Regulations) 2017**

**Chamber Ref: FTS/HPC/CV/24/2050**

**Re: Property at 36 Arthur Street, Flat 5, Edinburgh, EH6 5DD (“the Property”)**

**Parties:**

**Mr Alan Doory, Rua Conde De Baependi 62, Apartment 504, Flamengo, Rio De Janeiro, Brazil, 22231 140, Brazil (“the Applicant”)**

**Mr Cameron Marr, sometime residing at 36 Arthur Street, Flat 5, Edinburgh, EH6 5DD and now residing at 14 Kennedy Court, Tranent, Lothian, EH33 1DP (“the Respondent”)**

**Tribunal Member:**

**Martin McAllister (Legal Member)**

- A. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondent for payment of the sum of TEN THOUSAND THREE HUNDRED AND SIXTY FOUR POUNDS 50 PENCE (£10364.50) to the Applicant.**
- B. The Tribunal determined that the sum of £10364.50 will attract interest at the rate of 8% from the date of the order until payment.**

**Background**

1. This is an application for payment. The application is dated 2 May 2024 and was accepted for determination on 22 May 2024.
2. The application contained a request that the sum should attract interest at the rate of 8% from the date of the order until payment.

3. A case management discussion was held by teleconference on 8 October 2024. Mr Scott Runciman, solicitor, represented the Applicant who was not in attendance. The Respondent was in attendance.
4. The legal member outlined the purpose of a case management discussion.
5. No written representations had been submitted by the Respondent.
6. The Applicant's representative had submitted an updated rent statement to the Tribunal on 21 September 2024 with a request that the sum being sought be increased to £10364.50. A copy had been sent to the Respondent.

### **Preliminary Matters**

7. Ms Runciman asked the tribunal to amend the application in respect of the sum being sought. The application was for an order of payment of £9487.50. He said that the most recent rent statement before the tribunal showed that the rent arrears to 4 September 2024 are £10364.50. He said that the rent arrears had been calculated to the date the Respondent left the Property.
8. Mr Marr confirmed that he had left the Property on 5 September 2024. He said that he accepted that he has rent arrears of £10364.50.
9. The tribunal considered it appropriate to amend the application in terms of Rule 14 A of the Rules and to allow the sum being claimed to be increased to £10364.50.
10. Mr Marr said that he would be willing to enter into a payment plan and could afford to pay £500 per month. When asked why he had not made an application for a Time to Pay Direction, the Respondent said that he had been overwhelmed by the process.
11. Mr Runciman said that payment plans had been offered in the past but had not been maintained. He said that it would be inappropriate for an instalment payment order to be made since the tribunal had no relevant application before it.
12. Mr Runciman said that if the application was granted and a payment plan was set up and adhered to, his client may consider not carrying out enforcement action.

### **13. Documents before the tribunal**

13.1 Private Residential Tenancy Agreement between the Applicant and the Respondent showing the start date of the tenancy to be 1 October 2023 and the monthly rent to be £775.

13.2 Rent statement showing the arrears of rent as at 1 May 2024 to be £9487.50.

13.3 Rent statement showing the arrears of rent as at 4 September 2024 to be £10364.50

## **14 Findings in Fact**

14.1 The Applicant and the Respondent entered into a Private Residential Agreement for the Property with the tenancy commencing on 1 October 2024.

14.2 The monthly rent for the Property is £775 and the Respondent was contractually bound to pay this during the tenancy.

14.3 As at the date of submission of the application, the rent arrears amounted to £9487.50.

14.4 As at 4 September 2024, the rent arrears amounted to £10364.50.

14.5 In terms of the private residential tenancy agreement, the Applicant is entitled to interest at the rate of 8% on late payment of rent.

## **Reasons**

15 The tribunal considered that there was no reason to adjourn the determination of the application to a Hearing. Both parties said that they had no evidence to bring before a Hearing and that the tribunal had all the necessary information to make a decision.

16 The Respondent agreed that he was contractually bound to pay the rent and to pay interest at the rate of 8% on any rent in arrears. He accepted that what the Applicant was seeking in respect of interest was less than he is entitled to in terms of the tenancy agreement since the interest clause would be engaged on any rent due and unpaid. The Applicant was seeking interest calculated from the date of the order of payment and not for a period prior to that.

17 The tribunal accepted that the Respondent owed £10364.50 according to the rent statement before it. The tribunal accepted that the Respondent had an obligation, in terms of the private residential tenancy agreement, to pay the rent and that the rent statement was accurate.

18 The appropriate standard of proof is the balance of probabilities and the tribunal considered that this threshold had been crossed and that it was appropriate to grant the payment order. It accepted the documentary evidence before it and acknowledged the Respondent's acceptance of the debt.

19 The private residential tenancy agreement contained a contractual provision in respect of interest and the tribunal determined that it was appropriate to make provision for interest in the order for payment.

20 The tribunal noted that an application for a Time to Pay Direction was not before it and it determined, in the circumstances, that it would be inappropriate to grant an instalment payment order.

### **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.

Martin J. McAllister  
Legal Member  
8 October 2024