



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/24/1693

**Re: Property at Flat 02/02 46 Brownhill Road, Mansewood, Glasgow, G43 2AE
("the Property")**

Parties:

**Mr James Taylor, 4 Broadlees Gardens, Chapelton, South Lanarkshire, ML10
6SN ("the Applicant")**

**Ms Margaret McGillivray, Flat 02/02 46 Brownhill Road, Mansewood, Glasgow,
G43 2AE ("the Respondent")**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the application should be decided without a Hearing
and made an Order against the Respondent for payment to the Applicant of the
sum of £6,337.35, with interest thereon at 5% per annum from the date of the
Order until payment.**

Background

1. By application, dated 15 April 2024, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £3,040, with interest thereon at 5% per annum from the date of the Tribunal's Decision until payment.
2. The application was accompanied by a copy of what purported to be a Short Assured Tenancy Agreement between the Parties, commencing on 18 October 2019 at a monthly rent of £535, and a Rent Statement showing arrears at February 2024 of £2,465. The Applicant's agents subsequently provided a number of updated Rent Statements, the last of these showing arrears of £6,337.35 at September 2024. Interest at 5% per annum had been

applied to the outstanding rent payments since May 2024. The tenancy agreement contains a provision for interest on unpaid rent at 4% per annum above the bank base rate.

3. On 20 September 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 11 October 2024. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 29 October 2024. The Applicant was present and was represented by Mrs Joanne Hogg, Partner, Stodarts LLP, solicitors, Hamilton. The Respondent was not present or represented. Trainee solicitor, Lauryn Bell attended as an observer but took no part in the proceedings.
5. The Applicant's representative told the Tribunal that no payments of rent had been received since the date of the latest Rent Statement.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. The Tribunal noted that, whilst the tenancy agreement takes the form of a Short Assured Tenancy Agreement, it is in fact a Private Residential Tenancy Agreement as its commencement date was after the coming into force of the Private Housing (Tenancies) (Scotland) Act 2016. It remains, however, a valid tenancy agreement between the Parties.
8. The Tribunal was satisfied that the sum sought in the application, as amended by subsequent Rent Statements to £6,337.35, had become lawfully due by the Respondent to the Applicant. The Tribunal noted that the tenancy agreement makes provision for interest on rent that remains unpaid for more than three days after it has fallen due at 4% above the base lending rate for the time being of the landlord's bankers, and that the Applicant has in fact been charging interest on the unpaid rent since May 2024. In those circumstances, the Tribunal was prepared to grant the Applicant's request for interest on the sum sought, from the date of the Tribunal's Order until payment. The Tribunal's view was that the rate requested, 5% per annum, was reasonable.

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.

G.Clark

Legal Member/Chair

29 October 2024
Date