



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/24/2546**

**Re: Property at 1/L 6 Grays Lane, Dundee, DD2 3AN (“the Property”)**

**Parties:**

**Mr Mark Little, 25 Green Julian Place, Inchtute, PERTH, PH14 9PA (“the Applicant”)**

**Mr Lloyd Spowart, 1/L 6 Grays Lane, Dundee, DD2 3AN (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Four thousand pounds (£4000) Sterling**

**Background**

1. By application to the Tribunal the Applicant sought an order for payment against the Respondent in respect of unpaid rent arrears. In support of the application the Applicant provided a copy of the tenancy agreement, bank statements and a rent statement.
2. By Notice of Acceptance of Application dated 20 June 2024 a Legal Member of the Tribunal with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. The application was therefore referred to a Case Management Discussion on 30 October 2024. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers on 26 September 2024 in accordance with Rule 17(2) of the Rules of Procedure. Both

parties were invited to make written representations in advance of the Case Management Discussion.

3. No representations were received from the Respondent. On 10 October 2024 the Applicant emailed the Tribunal with an updated rent statement and recent bank statements and requested an increase of the sum claimed to reflect the current balance of arrears of £4000. Said request was intimated upon the Respondent.

### **Case Management Discussion**

4. The Case Management Discussion took place on 30 October 2024 by teleconference. The Applicant was personally present. The Respondent was not in attendance. The Tribunal noted that he had received proper notification of the Case Management Discussion in terms of Rule 17(2) of the Rules of Procedure and therefore determined to proceed with the Case Management Discussion in her absence.
5. The Tribunal went on to explain the purpose of the Case Management Discussion to the Applicant and asked him to explain the background to the application and the order he was seeking from the Tribunal. For the avoidance of doubt the following is a summary of what was discussed and does not constitute a verbatim account of the proceedings.
6. The Applicant confirmed that he was requesting an order for payment from the Tribunal. There had been no payments to the rent account by the tenant since December 2023, despite various promises of payment. The Applicant had tried to keep in touch with the Respondent but the Respondent did not answer his calls, instead responding via text message. It had now been almost ten months of unpaid rent.
7. In response to questions from the Tribunal, the Applicant confirmed that the rent fell due to be paid in advance on the 1<sup>st</sup> of the month as per the terms of the tenancy agreement.
8. The Tribunal adjourned to deliberate, at which point the Applicant left the call, before resuming the Case Management Discussion and confirming its decision.

### **Findings in Fact**

9. The parties entered into a Private Residential Tenancy Agreement which commenced on 17 October 2020.
10. In terms of Clause 7 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £400 per calendar month in advance on the 1<sup>st</sup> of the month.
11. The Respondent has failed to make any payments to the rent account since 15 December 2023.
12. As at the date of this decision arrears in the sum of £4000 are outstanding.

## Reasons for Decision

13. The Tribunal was satisfied that it had sufficient information upon which to make a decision at the Case Management Discussion and that to do so would not be prejudicial to the parties. The Respondent had been given the opportunity to attend the Case Management Discussion, or make written representations, and had chosen not to do so.
14. The Tribunal was content that it could agree the request from the Applicant to increase the sum sought to £4000. The request had been made timeously in accordance with Rule 14A of the Rules and had been intimated upon the Respondent.
15. The Tribunal therefore accepted based on its findings in fact, which were supported by the documents produced by the Applicant and his submissions at the Case Management Discussion, that the Respondent was liable to pay the Applicant the sum of £4000 in accordance with the terms of the tenancy agreement. The Tribunal was satisfied that this sum was due as at the date of this decision having regard to Clause 7 of the agreement. There was nothing before the Tribunal to contradict the Applicant's evidence in this regard.
16. The Tribunal therefore made an order in the sum of £4000.
17. The decision of the Tribunal was unanimous.

## 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.**

# R.O'Hare

**30 October 2024**

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**Legal Member/Chair**

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**Date**