

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/24/4603

Re: Property at 29 Kippielawpark, Mayfield, EH22 5AL (“the Property”)

Parties:

Patrick Nevin, 1 Cowpits Crescent, Whitecraig, EH21 8TE (“the Applicant”)

Vicky Blackhurst, 29 Kippielawpark, Mayfield, EH22 5AL (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for payment in the sum of £19,161.82 with interest at the rate of 8% per annum from 2 April 2025 be granted against the Respondent.

- 1) This was 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. The PRT in question was by the Applicant to the Respondent commencing on 21 November 2022.
- 2) The application was dated 3 October 2024 and lodged with the Tribunal on that date. The application sought payment of arrears of £14,361.82 with interest at 8% per annum. The rent stated in the Tenancy Agreement lodged was £800 a month.
- 3) Prior to the case management discussion (“CMD”) we received an updated rent statement and a motion for amendment from the Applicant’s solicitor, seeking to amend the sum sought to £19,161.82 being the sum said to be due as at 21

March 2025. Evidence of intimation of the motion and statement upon the Respondent by post on 20 March 2025 was provided.

The Hearing

- 4) The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 2 April 2025 at 14:00. We were addressed by Rosaleen Doyle, solicitor, McEwan Fraser Legal for the Applicant. There was no appearance for the Respondent.
- 5) We sought confirmation from the Tribunal's clerk as to any contact from or on behalf of the Respondent but there had been none (in regard to this application or a conjoined application for eviction under reference EV/24/4024). The Applicant's agent confirmed that there had been very little contact with the Respondent in recent months. The last contact was when she had been present during a gas safety inspection in January 2025. At the conclusion of the inspection, during which the Respondent had been noted as appearing "quiet", the Applicant's partner (who had also been in attendance at the inspection) mentioned that there were ongoing applications before the Tribunal but the Respondent had made no comment in response. In all the circumstances, and having not commenced the CMD until 10:05, we were satisfied to hear the application in the absence of the Respondent. (In any event, neither the Respondent nor anyone on her behalf sought to dial into the CMD call at any time before its conclusion.)
- 6) The Applicant's agent confirmed that the amendment motion was still insisted upon and that the rent of £19,161.82 was for rent due through to 20 April 2024. She explained that the Respondent has been in arrears for the full duration of the Tenancy. The rent was £800/m payable on the 21st of the month from 21 November 2022 and she paid £500 on each of 16 January and 23 January 2023 and the Applicant received payments from Universal Credit of £800 on each of 2 February, 2 March and 31 March 2023 and a further £638.18 on 2 May 2023, with no further payments made. The Applicant had no information as to why Universal Credit payments had started and then stopped. Letters had been sent encouraging a proposal on rent arrears but no proposal had been made by the Respondent.
- 7) No motion was made for expenses.

Findings in Fact

- 8) On 23 November 2022, the Applicant let the Property to the Respondent under a Private Residential Tenancy ("PRT") agreement with commencement on 21 November 2022 ("the Tenancy").
- 9) In terms of clause 8 of the Tenancy Agreement, the Respondent required to pay rent of £800 a month in advance on the 21st of each month.
- 10) As of 2 April 2025, the Respondent was in arrears of rent for the period to 20 April 2025 in the amount of £19,161.82.

- 11) The Respondent does not claim to have paid any amount of the said arrears of £19,161.82 for the period to 20 April 2025.

Reasons for Decision

- 12) The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal.
- 13) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. We were satisfied, on the basis of the application, supporting papers, and motion papers that rent arrears of £19,161.82 were due for the period to 20 April 2025. We noted that intimation of the rent statement and motion had been made by post to the Respondent but, in any event, she had not appeared nor tendered a defence to any part of the application as originally lodged. We were satisfied to grant the motion for amendment. Further, we were satisfied that the increased sum of £19,161.82 was well-vouched and no defence was made disputing the sum.
- 14) We were thus satisfied to make a decision at the CMD to award the sum of £19,161.82 against the Respondent. This is an order restricted to sums due under the Tenancy in regard to rent arrears up to 20 April 2025.
- 15) On interest, the Applicant sought 8% per annum and the Respondent made no submission on interest either. We were satisfied to grant interest at 8% from the date of this Decision.

Decision

- 16) In all the circumstances, we are satisfied to make the decision to grant an order against the Respondent for payment of £19,161.82 with interest at the rate of 8% per annum from today's date.

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.

Joel Conn

2 April 2025

Legal Member/Chair

Date