



**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/24/4630**

**Re: Property at Flat 2, 106 Argyll Street, Dunoon, PA23 7NE (“the Property”)**

**Parties:**

**Lynn O'Hare, Allan O'Hare, 1 Ollach, Erskine, PA8 7EU (“the Applicants”)**

**Michael Campbell, Cot House Caravan Park, Sandbank Road, Kilmun, Dunoon, PA23 8QS (“the Respondent”)**

**Tribunal Members:**

**Joel Conn (Legal Member) and Ahsan Khan (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 £6,800 be granted against the Respondent.**

- 1) This was an application by the Applicants 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 tenancy in question was a Private Residential Tenancy (“PRT”) by the Applicants to the Respondent commencing on 1 May 2020.
- 2) The application was dated 4 October 2024 and lodged with the Tribunal on 4 October 2024. The application sought payment of arrears of £6,800. The lease for the Tenancy accompanied the application and it detailed a rental payment of £600 payable in advance on the 1<sup>st</sup> of each month but the papers explained that parties had separately agreed a rent of £425 per month. The application papers included a rental statement showing that at the date of application the Respondent was in rent arrears for 16 consecutive months totalling £6,800, having not made any payments since 29 June 2023 (which payment covered rent to 31 July 2023).

## **The Hearing**

- 3) The matter called for a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 12 May 2025 at 10:00. We were addressed by David Phinn, solicitor (associate), Miller Samuel Hill Brown LLP on behalf of the Applicants. There was no appearance from the Respondent.
- 4) We were informed by the clerk that no contact had been received from the Respondent (or on his behalf) with the Tribunal. The Applicants' agent said that no communication had been received from the Respondent since prior to the start of the year. He said that there had been contact with the Respondent regarding access for inspections, and the Respondent had replied by email exerting that he remained a tenant and did not consent to access but there had been no communication regarding arrears. No payment towards rent had been received since July 2023 (which was relied upon both in regard to this application and a conjoined case on eviction: EV/24/4628).
- 5) We noted that the Respondent had received clear intimation of the CMD by the Sheriff Officer instructed by the Tribunal, served at a new address for him at a caravan park. Having not commenced the CMD until around 10:05, we were satisfied to consider the application in the Respondent's absence. In any case, no attempt was made by the Respondent (nor anyone on his behalf) to dial in late to the CMD.
- 6) At the CMD, the Applicants' agent confirmed that the application for an order for payment of rent arrears was still insisted upon and that no payment had been made against the balance sought (and the arrears had now increased to £9,775 for the period to 31 May 2025).
- 7) No motion was made for interest or expenses.

## **Findings in Fact**

- 8) In an undated lease, the Applicants let the Property as a Private Residential Tenancy to the Respondent with commencement on 1 May 2020 ("the Tenancy").
- 9) In terms of clause 9 of the Tenancy Agreement, the Respondent required to pay rent of £600 a month in advance on the 1<sup>st</sup> day of each month, but by agreement between the parties, the passing rent was revised to £425 a month payable on the same day of the month.
- 10) As of 12 May 2025, the Respondent was in arrears of rent in the amount of £9,775 which is equivalent of 23 months of rent.
- 11) The element of arrears due to 31 October 2025 is £6,800.

- 12) The Respondent does not claim to have paid any amount of the arrears of £9,775 remaining as at 12 May 2025.
- 13) Intimation of the date and time of the CMD was given to the Respondent by Sheriff Officer on 14 March 2025.

### **Reasons for Decision**

- 14) 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 and supporting papers, that rent arrears of £6,800 were due for the period to 31 October 2025 and remained outstanding as of today.
- 15) No defence was made by the Respondent to any part of the application. (There was no appearance or defence to the conjoined application for eviction either.)
- 16) The application, supplemented by the updated rent arrears information, clearly set out the sums sought and we were satisfied that the necessary level of evidence for these civil proceedings had been provided.
- 17) 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. We were thus satisfied to make a decision at the CMD to award the sum of £6,800 against the Respondent. This is an order restricted to sums due under the Tenancy to the Applicants in regard to rent arrears up to 31 October 2025 only.

### **Decision**

- 18) In all the circumstances, we were satisfied to make the decision to grant an order against the Respondent for payment of £6,800.

### **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

13 May 2025

Legal Member/Chair

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Date