



**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**

**Chamber Ref: FTS/HPC/CV/24/0853**

**Re: Property at Flat 1, 1A Constitution Street, Dundee, DD3 6NF (“the  
Property”)**

**Parties:**

**Fine Nest Property Ltd, 7 McVicars Lane, Dundee, DD1 4LH (“the Applicant”)**

**Mr ADEBAYO MAUZON ADENIYI, 24 Braehead Street, Kirkintilloch, Glasgow,  
G66 1PT (“the Respondent”)**

**Tribunal Members:**

**Yvonne McKenna (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) made a Payment Order in favour of the Applicant against the  
Respondent in the sum of £1,750.**

**Summary of Discussion**

1. The Applicant seeks a Payment Order in respect of rent arrears of £1700 said to be lawfully due by the Respondent to the Applicant under a tenancy between the parties.
2. In addition the Applicant said that he loaned the Respondent the sum of £50 on 29 July 2023.
3. The application is accompanied by;
  - The tenancy agreement
  - Notice to Leave

- Bank statements from 1 March 2023 to 1 August 2023
- Rent statement
- Messages exchanged between the parties between 28 February 2023 and 12 February 2024.

### **The First Case Management Discussion 28 October 2024**

4. The application called for a Case Management Discussion ("CMD") by conference call at 2.00pm on 28 October 2024. Mr Guan for the Applicant was present. The Respondent did not attend.
5. The Respondent is stated to be resident in Nigeria. The case papers were sent to him by the Tribunal on 20 September 2024 by international tracked mail. The paperwork had not been served on the Respondent before the CMD. The tracking system showed that the papers were still in transit.
6. Mr Guan said that he had received a 'whatsapp' message in February 2024 from the Respondent, which suggested that the Respondent was still in the UK, and had not returned to Nigeria. He is unaware of the Respondent's current whereabouts. The tribunal said that if the paperwork could not be served, then the Applicant will require to seek service by advertisement.
7. The CMD was adjourned (proceeding to a further CMD at 11.30 on 5 December 2024) to allow the case papers to be properly served.
8. On 13 November 2024, the Tribunal issued a Direction to the Applicant requiring the Applicant to lodge with the Tribunal a track and trace report establishing the whereabouts of the Respondent by 29 November 2024.
9. The Applicant did not comply with the Direction.
10. On 21 November 2024 the Applicant was written to by the Tribunal. It was explained that the case was scheduled to call as a further CMD on 5 December 2024. The Applicant was told that the Tribunal may find itself in the same position on that date as at the first CMD, if the relevant paperwork has not been served on the Respondent.
11. The Applicant was told that if the paperwork could not be served, they would require to seek service by advertisement, ('SBA'). The relevant form and guidance was issued. It was explained to the Applicant, that along with the request for SBA, they would require to highlight what steps they have taken to establish the Respondent's whereabouts beforehand, by track and trace. This information should accompany the request for SBA.

### **The Second Case Management Discussion 5 December 2024**

12. The second CMD proceeded by teleconference at 11.30 am on 5 December 2024. No one showed up. The Legal Member asked her clerk to contact Mr Guan. He joined the conference call after this, approximately 10 minutes late. He said that he had not entered the CMD in his diary.
13. Mr Guan had, he explained been busy, and had not had time to comply with the request by the Tribunal for further information. The Legal Member explained that without the relevant paperwork and intimation being legally and effectively served on the Respondent, the action cannot proceed any further.
14. Mr Guan asked if the original paperwork had been served in Nigeria as this is where the Respondent's family and mother live. It was explained that if the Applicant is aware that the Respondent is no longer living in Nigeria, as seemed to be his position, he should proceed by requesting SBA and following the guidance provided to date.
15. Mr Guan assured the Tribunal that he would attend to this matter over the course of the next 7 days.

### **The Third Case Management Discussion 4 April 2025**

16. The third CMD proceeded by teleconference at 10am on 4 April 2025. The Applicant was present. The Respondent was not.
17. The Applicant had obtained the address of the Respondent and the paperwork had been effectively served by Sheriff Officers on the Respondent by the Tribunal on 20 February 2025.
18. The Tribunal accordingly proceeded in terms of Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ('the Rules') in the absence of the Respondent.
19. Mr Guan said that since the paperwork was served on the Respondent he had telephoned the Respondent. He had answered the phone and had immediately hung up, when he discovered that it was the Applicant. There had been no further contact. The sums were still due. No further payment had been made. He invited the Tribunal to grant the Order for Payment.

### **Findings in Fact**

20. The Parties entered into a tenancy agreement with a start date of 1 March 2023 in terms of which the Applicant let the Property to the Respondent.
21. The contractual monthly rent was £500 per month.
22. The sum of £1700 is currently lawfully due as rent arrears by the Respondent to the Applicant.

23. On 29 July 2023 the Respondent borrowed the sum of £50 from the Applicant which he has not repaid.

### **Reasons for Decision**

24. Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order in favour of the Applicant against the Respondent in the sum of £1750. The Applicant had provided an updated rent statement showing the rental due and outstanding, which was not disputed by the Respondent. He had provided a bank statement as proof of the £50 loan.

### **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.



**Yvonne McKenna**

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**Legal Member/Chair**

**4 April 2025**

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**Date**