

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 (Act)

Chamber Ref: FTS/HPC/CV/24/5576

Re: Property at Flat 8, 6 Dauline Road, South Queensferry, EH30 9BP (“the Property”)

Parties:

Capita Trust Company Ltd as Trustee For Housing Fund for Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mr Keeran MacDonald-Currie, Ms Samantha Jenkins, Flat 8, 6 Dauline Road, South Queensferry, EH30 9BP (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment be granted in the sum of £12,374.57 with interest at the rate of 4% per annum.

Background

This is an application under Rule 111 and section 71(1) of the Act for recovery of rent arrears.

The Tribunal had regard to the following documents:

1. Application received 3 December 2024;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 16 September 2020;
3. Rent Arrears Statement as at 4 June 2025;
4. Pre Action Correspondence;
5. Certificate of Service of Tribunal CMD Notification on the Respondents by Sheriff Officers dated 25 March 2025.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 9 June 2025. The Applicant did not participate but was represented by its solicitor, Mr Caldwell. The Respondents did not participate and were not represented.

The Tribunal delayed the start of the CMD to see if the Respondents would participate but they did not.

The Tribunal were satisfied that the Respondents had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondents that they should attend and the Tribunal could determine the matter in absence if they did not.

The Second Respondent (Ms Jenkins) emailed the Tribunal Administration before the CMD commenced advising that she was now the sole tenant due to her relationship breaking down, had a young baby and was taking steps to address the arrears. She sought further time to do so.

Mr Caldwell had produced an updated Schedule of Rent Arrears as at 4 June 2025. It disclosed that the amount of arrears had increased to £12,374.57. He asked the Tribunal to amend the application to the increased amount. He informed the Tribunal that he had discussed Ms Jenkin's email with his clients and whilst they would discuss the position with her and be open to any sensible proposals at this moment in time his instructions were to seek the order in the increased amount. Ms Jenkins had made proposals to pay the rent and contribute towards arrears last May and these had not been adhered to. His clients had no knowledge of her becoming the sole tenant or of having a young child.

Mr Caldwell asked the Tribunal to apply interest at the rate of 4% per annum.

The Tribunal then considered the documentary evidence it had received and the submissions made. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 16 September 2020;
2. The monthly rent following rent increase was £729.60;
3. As at the date of the CMD the Respondents were in arrears of rent in the amount of £12,374.57;
4. The rental arrears were not due to any delay or failure in the payment of a relevant benefit.

The Tribunal was satisfied that the rent arrears had been established and it was reasonable to grant the order in the amended sum of £12,374.57 along with interest at 4%.

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.

Alan Strain

Alan Strain

Legal Member/Chair

9 June 2025

Date