

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/25/0731**

**Re: Property at 7 Mitchell Way, Tranent, EH33 1DL (“the Property”)**

**Parties:**

**Mr Jordan Pennycuick, 51 Moffat Walk, Tranent, EH33 2QN (“the Applicant”)**

**Mr Morgan Stewart, Mr Anthony Keane, 7 Mitchell Way, Tranent, EH33 1DL (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Mary Lyden (Ordinary Member)**

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

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a payment order in the sum of Eight thousand seven hundred and twenty eight pounds and sixty five pence (£8,728.65) Sterling with interest at the rate of 4.25% per annum from the date of this decision until payment.

**Background**

- 1** This is an application for a payment order under Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 71 of the 2016 Act. The Applicant sought the sum of £5945. The application was conjoined with an application for an eviction order under reference FTS/HPC/EV/24/5127 as both applications involved the same parties and same tenancy.
- 2** The application was referred to a case management discussion (“CMD”) to take place by teleconference on 2 June 2025. The Tribunal gave notification of the application to the parties in accordance with Rule 17(2) of the Rules. Said notification was served upon the Respondents by sheriff officers on 18 March 2025.

- 3 Both parties were invited to make written representations. On 16 May 2025 the Applicant sent a request to amend the sum claimed to £8728.65 together with interest at the rate of 4.25% per annum from the date of decision. The request was intimated to the Respondents. That same day the Tribunal also received an email from the second Respondent advising that he would pay off the arrears over the coming months.

### **The CMD**

- 4 The CMD took place on 2 June 2025 at 10am by teleconference. Mr McTigue of Jackson Boyd Lawyers represented the Applicant. He was joined by the Applicant's mother, Ms Tracey Pennycuick, and the Applicant's sister, Ms Ellie Pennycuick.
- 5 The Tribunal had the following documents before it:-
- (i) Form F application form dated 20 February 2025 and paper apart;
  - (ii) Title sheet ELN7533 confirming the Applicant as the registered owner of the property;
  - (iii) Excerpt from the online landlord register confirming the Applicant's landlord registration;
  - (iv) Private residential tenancy agreement between the parties dated 30 June 2023;
  - (v) Rent statement;
  - (vi) The Applicant's request for amendment dated 16 May 2025; and
  - (vii) The first Respondent's email dated 16 May 2025.
- 6 The Tribunal heard submissions from Mr McTigue regarding the application. The following is a summary of the key elements of the submissions and does not constitute a verbatim account.
- 7 Mr McTigue confirmed that the Applicant sought an order for payment in the amended sum together with interest at the rate of 4.25% per annum from the date of decision until payment. The second Respondent had contacted his firm by email on 4 December 2024 offering payments of £500 per month towards the arrears, however no payments had materialised in line with that proposal. There had been no further payments to the rent account since the request for amendment was submitted.

### **Findings in fact**

- 8 The parties entered into a tenancy agreement in respect of the property, which commenced on 30 June 2023.
- 9 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 10 In terms of Clause 8 of the said tenancy agreement the Respondents agreed to pay rent at the rate of £895 per month. The rent was subsequently increased by the Applicant to £925 per month from August 2024.

- 11** The Respondents have failed to pay rent as agreed. As at 16 May 2025, arrears in the sum of £8728.65 are outstanding.

### **Reasons for Decision**

- 12** The Tribunal was satisfied it had sufficient information before it to make relevant findings in fact and reach a decision on the application having regard to the application paperwork and the submissions heard at the CMD. In terms of Rule 17(4) and Rule 18(1) of the Rules the Tribunal determined that it could make a decision at the CMD as there were no issues to be resolved that would require a hearing and the Tribunal was satisfied that to make a decision would not be contrary to the interests of the parties. The Respondents had been given the opportunity to make written representations and attend the CMD but had chosen not to do so.
- 13** Based on the documentary evidence before it, the Tribunal was satisfied that the Respondents had a contractual obligation to pay rent of £925 and had failed to do so, resulting in arrears of £8728.65. The Tribunal was further satisfied that the request to amend the sum sought had been made timeously and in accordance with Rule 14A of the Rules. The Tribunal had regard to the first Respondent's email of 16 May 2025 in response to the request, in which he did not dispute the arrears were due, only that he required further time to pay.
- 14** The Tribunal was also satisfied that it could exercise its discretion under Rule 41A of the Rules to award interest at the rate of 4.25% per annum from the date of this decision until payment. The Tribunal considered that 4.25% was a reasonable rate in the particular circumstances of this case and in line with the current Bank of England base rate. It noted that the Respondents had not sought to challenge this.
- 15** The Tribunal therefore determined to make an order for payment in the sum of £8728.65 with interest at the rate of 4.25% per annum from the date of this decision until payment.
- 16** 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.**

**Ruth O'Hare**

**Legal Member/Chair**

**Date 2 June 2025**

