



**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) Act 2016**

**Chamber Ref: FTS/HPC/CV/24/5338**

**Re: Property at 26 Madeira Street, Edinburgh, EH6 4AL (“the Property”)**

**Parties:**

**Alastair Reeder Ness, David John Ness, 15b Ewerland,, Edinburgh, EH4 6DH; Camps Villa, The Camps, Kirknewton, East Calder, EH27 8DN (“the Applicants”)**

**Neil Diarmid Ross, 26 Madeira Street, Edinburgh, EH6 4AL (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- Background

This is an application for an order for payment of rent arrears and other charges alleged to be owed by the Respondent to the Applicants, ultimately in terms of his private residential tenancy agreement. It called for a case management discussion (‘CMD’) at 2pm on 3 June 2025, by teleconference. The first-named Applicant was on the call in-person, and the Applicants were also represented by Mr David Gray, of Gilson Gray LLP, solicitors. The Respondent was not on the call and was not represented. The commencement of the CMD was delayed by 10 minutes, in case of any technical difficulty he may have been experiencing; but there remained no contact from him.

Notice of the CMD and a copy of the application paperwork was served on the Respondent by sheriff officers on 18 March 2025. The Tribunal was therefore satisfied that he was aware of the matter and had chosen not to oppose the application.

- Findings in Fact

The following facts were relied on by the Tribunal, as unopposed, as relevant to its decision:

1. The Respondent entered into a private residential tenancy agreement with a Mr John Ness in respect of the Property, with a start date of 11 March 2020.
2. In terms of that agreement, rent of £975 was due on the first day of each month.
3. On 24 May 2023, Mr Ness sent a rent increase notice to the Respondent, increasing the rent to £1,004.25 per month from 1 September 2023.
4. On 29 October 2024, title to the Property was transferred by Mr Ness to the Applicants, with the effect that they replaced him as landlords to the Respondent.
5. On 14 November 2024, Mr Ness assigned to the Applicants the legal and beneficial title to any rent arrears that had accrued under the Respondent's tenancy up to and including 29 October 2024.
6. At the date of the CMD, the Respondent owed £17,070.75 in rent.

- Reasons for Decision

7. The Applicant had applied to amend the application, in terms of rule 14A of the Rules of Procedure, to increase the sum sought to the amount

outstanding on the day of the CMD. The Respondent had not indicated any opposition to that, and the application was granted.

8. The application asked for an additional sum of £851.18 to be awarded, being alleged to be the reasonable expenses incurred in pursuing the outstanding rent. There was on the face of it provision in the tenancy agreement for the Respondent to be held liable for such sums. The Tribunal indicated that it had some concern that these might be considered an unlawful premium in terms of s.82(2) of the Rent (Scotland) Act 1984. It indicated that it would require to adjourn the matter to a further CMD or a hearing to receive fuller submissions from the Applicants on this point, if they were to insist on it. The Applicants indicated that they did not wish to delay matters for further procedure and were therefore content to drop this element of the application.
9. The sum sought (as amended) being owed by the Respondent to the Applicants, the Tribunal determined that an order for payment of that amount should be made. The Applicants had requested that the Tribunal make any award subject to interest at a rate of 4% p/a. This request had been set out in the initial application and was repeated in the application to amend; and had thereby been intimated on the Respondent. He had not indicated any opposition to such a course. The Tribunal did not consider the rate suggested was manifestly unreasonable and therefore agreed to impose interest at the rate sought, as unopposed.

- Decision

**Order made for payment by the Respondent to the Applicants of the sum of SEVENTEEN THOUSAND AND SEVENTY POUNDS AND SEVENTY-FIVE PENCE STERLING (£17,070.75); with interest thereon at the rate of 4% per annum from this date, until payment.**

**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.**

**Legal Member: Nairn Young**

**Date: 3<sup>rd</sup> June 2025**

**Nairn Young**