



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)**

**Chamber Ref: FTS/HPC/CV/24/3883**

**Re: Property at 25 McMurdo Road, Annan, DG12 6DD (“the Property”)**

**Parties:**

**Mr Andrew Lowrie, 2 Wyseby Hillside, Kirtlebridge, DG11 3AW (“the Applicant”)**

**Richard Andrew, 25 McMurdo Road, Annan, DG12 6DD (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Elizabeth Dickson (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 by the Respondent in the sum of £10,300 should be made in favour of the Applicant.**

**Background**

1. By application received on 22 August 2024, the Applicant applied to the Tribunal for an order for payment of rent arrears of £7,100 against the Respondent. Supporting documentation was submitted in respect of the application, including a copy of a rent statement and proof of payments made in respect of rent. An eviction application was lodged together with the payment application and the applications were conjoined.
2. Following initial procedure, on 28 October 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.

3. Notification of the application and details of the Case Management Discussion (“CMD”) fixed for 20 May 2025 was served on the Respondent by way of Sheriff Officer on 27 March 2025. In terms of said notification, the Respondent was given until 15 April 2025 to lodge written representations. No written representations were lodged by or on behalf of the Respondent prior to the CMD.
4. On 1 May 2025, written representations were received on behalf of the Applicant, requesting to amend the rent arrears owing to £10,300, in terms of Rule 14A of the Regulations. An updated rent statement was produced, together with evidence that the Applicant’s solicitor had copied this paperwork to the Respondent directly by post.

### **Case Management Discussion**

5. The Case Management Discussion (“CMD”) took place by telephone conference call on 20 May 2025 at 2pm. The Applicant’s representative was in attendance, namely Mr Murray Bolling of Harper, Robertson & Shannon, solicitors. The Respondent did not attend, although the Tribunal delayed the commencement of the CMD for 5 minutes to give him an opportunity to join late, but he did not do so.
6. Following introductions and introductory comments by the Legal Member, Mr Bolling was asked to confirm the Applicant’s position with regard to the application. He confirmed that a payment order was still sought against the Respondent in the increased sum of £10,300. He also confirmed that there has been no engagement at all from the Respondent for over a year.
7. As to the background circumstances, Mr Bolling advised that the Respondent already resided in the Property before this tenancy, the Property being previously owned by the Respondent’s mother. The Applicant had purchased the Property following her death and acquired it in 2020, effectively with the Respondent as sitting tenant. He was then signed up to a new tenancy and, unfortunately a copy of the tenancy agreement is missing, although the signing pages have been produced, indicating that it was signed by both parties on 12 November 2020. Mr Bolling explained that the tenancy management had previously been handled by the Applicant’s wife and he had been unable to obtain a copy of the tenancy paperwork from her. The Applicant had taken over management of the tenancy in June 2022. He does not know if rent was paid properly prior to then. Mr Bolling explained that this is the reason that no arrears are claimed before June 2022. He confirmed that the total arrears now amount to £10,300 as per the updated rent statement lodged recently. Evidence has been produced of the rent payments made by the Respondent since then but Mr Bolling stated that no rent whatsoever has been paid since December 2023 so the arrears have risen steadily.
8. Mr Bolling indicated his understanding is that there has been some contact previously between the Applicant and Respondent regarding the rent arrears but no engagement for some time now. The Respondent is understood to live

alone at the Property, with no dependents and to have been working for a housing association previously, although the Applicant is unaware of his current circumstances or the reason for the arrears.

9. The Tribunal Members conferred and indicated that they would grant the payment order as sought, would issue decision paperwork to both parties shortly and thanked Mr Bolling for his attendance at the CMD.

## **Findings in Fact**

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on or around 12 November 2020, although he was already in occupation of the Property when it was purchased by the Applicant.
3. The Respondent remains in occupation of the Property.
4. The rent in respect of the tenancy is £400 per calendar month.
5. Payments towards rent were erratic and no payments have been made since December 2023.
6. Rent arrears amounted to £7,100 when the application was lodged and have now increased to £10,300.
7. The Respondent had been called upon to make payment of the rent arrears but has failed to do so.
8. The Respondent did not lodge any written representations nor attend the CMD.

## **Reasons for Decision**

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation and the oral information provided at the CMD by the Applicant's solicitor.
2. The Tribunal found that the application was in order and had been properly and timeously amended to increase the sum sought to £10,300 on behalf of the Applicant, in terms of Rule 14A of the Regulations.
3. The Tribunal considered that, although it had not had sight of a copy of the full tenancy agreement, there was sufficient information before it to establish that the tenancy had commenced in or around November 2020 and that the rent payable was £400 per calendar month.

4. The Tribunal noted that there had been a lack of engagement from the Respondent with the Applicant in respect of the rent arrears and these Tribunal proceedings. The Tribunal was also satisfied that the Respondent was aware of the Tribunal proceedings and had chosen not to make written representations on his own behalf nor attend the CMD.
5. The Tribunal did not have any material before it to contradict the Applicant's position, nor to indicate that the Respondent was opposing the application. The Tribunal accordingly determined that an order for payment in the sum of £10,300 could properly be granted at the CMD as there were no facts in dispute nor any other requirement for an Evidential Hearing.

### **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.**

# N.Weir

**Legal Member/Chair**

— **20 May 2025**  
**Date**