



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/24/2794

Re: Property at 17C Mariners Wharf, North Harbour Street, Ayr, KA8 8AA (“the Property”)

Parties:

Mr David Owen, 35A Shrigley Road, Bollington, Cheshire, SK10 5RD (“the Applicant”)

Mr Alisdair Macdonald, 125C James Brown Avenue, Ayr, KA8 9SF (“the Respondent”)

Tribunal Members: Ruth O’Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Six thousand two hundred and thirty two pounds and twenty one pence (£6232.21) Sterling.

The Tribunal further determined to exercise its discretion under Rule 41A of the Rules and award interest on that sum at the rate of 8 per cent per annum from the date of this decision until payment.

Background

- 1** This is an application 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 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant sought a payment order against the Respondent in respect of unpaid rent and associated costs.
- 2** The application was referred to a case management discussion (“CMD”) to take place by teleconference on 1 July 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 17 April 2025.

- 3 Both parties were invited to make written representations. No written representations were received from the Respondent. On 24 June 2025 the Tribunal received a second inventory of productions from the Applicant's representative, The McKinstry Company, which included copy bank statements and a sheriff officers trace report. On 1 July 2025 the Tribunal received further representations from the Applicant's representative, which consisted of vouching for legal expenses and sheriff officer fees.

The CMD

- 4 The CMD took place on 1 July 2025 by teleconference. The Applicant was represented by Ms Emma Clark of The McKinstry Company LLP. The Respondent did not join the call. The Tribunal delayed the start time of the CMD for a short period before determining to proceed in his absence, noting that he had received proper notice of the CMD under Rule 17(2) of the Rules.

- 5 The Tribunal had the following documents before it:-

- (i) Form F application form and paper apart;
- (ii) Title sheet confirming the Applicant's ownership of the property, and excerpt from the online landlord register confirming the Applicant's landlord registration;
- (iii) Private residential tenancy agreement between the parties;
- (iv) Notice to leave;
- (v) Sheriff officers trace report;
- (vi) Emails between the parties regarding rent arrears;
- (vii) Copy correspondence from the Applicant and the Applicant's representative to the Respondent requesting payment of the arrears;
- (viii) The Applicant's second inventory of productions, and written representations dated 24 June 2025 and 1 July 2025.

- 6 The Tribunal heard submissions from Ms Clark on the application. The following is a summary of the discussion and does not constitute a verbatim account of the proceedings.

- 7 Ms Clark confirmed that the Applicant sought an order for payment of the arrears, and the additional costs as per the invoices submitted on 1 July 2025, which were not included in the initial application. Ms Clark advised that there had been an error in rent statement produced, and the arrears outstanding at the termination of the tenancy were £6232.21.

- 8 The Tribunal noted that the legal expenses and sheriff officers fees had not been included in the original application. The request for these to be included would therefore constitute an amendment of the application to introduce new issues. The Tribunal referred to Rule 14 of the Rules which require a party to be given no less than 14 days to make written representations in response to an amendment request. Ms Clark conceded that the request had only been

made the morning of the CMD. The Tribunal gave Ms Clark the opportunity to take instructions from the Applicant as to how he wished to proceed.

- 9 Ms Clark confirmed that the Applicant was not insisting on the amendment, and instead wished an order for the rent arrears, together with interest from the date the rent fall due at the rate of 8 per cent per annum, as per the terms of the tenancy agreement between the parties. The Tribunal advised that in terms of Rule 41A, it could only award interest from the date of the Tribunal's decision.

Findings in fact

- 10 The Applicant was the landlord, and the Respondent was the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 4 July 2022.
- 11 In terms of Clause 8 of the said tenancy agreement the Respondent undertook to pay rent at the rate of £590 per calendar month. The Respondent also agreed to pay interest on late payment of rent at the rate of 8 per cent per annum.
- 12 The tenancy between the parties terminated on 10 January 2024. As at the date of termination arrears in the sum of £6232.21 were outstanding.

Reasons for decision

- 13 The Tribunal was satisfied based on the application paperwork, the written representations and the submissions at the CMD that there was sufficient evidence upon which to make relevant findings in fact in order to reach a decision on the application. The Tribunal considered it could reach a decision under Rule 18 in the absence of a hearing. The Respondent had not sought to challenge any of the evidence submitted by the Applicant, therefore there were no disputed matters that would require a hearing to be fixed.
- 14 The Tribunal was satisfied based on the evidence before it that the Respondent had a contractual obligation to pay rent of £590 per month to the Applicant and had repeatedly failed to do so, resulting in arrears of £6232.21 at the end of the tenancy. The Tribunal therefore made an order for payment in the sum of £6232.31.
- 15 The Tribunal further determined to exercise its discretion under Rule 41A of the Rules and award interest at the rate of 8% per annum from the date of this decision until payment, which reflects what was agreed by the parties under the terms of the tenancy agreement.

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.

R O'Hare

Ruth O'Hare
Legal Member/Chair

1 July 2025
Date