



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/25/0993

Re: Property at 132 MUSHET ROAD, LIVINGSTON, EH54 7GE (“the Property”)

Parties:

Castle Rock Edinvar Housing Association Ltd in association with Places for People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mr Shaun Michael George Wright, 132 MUSHET ROAD, LIVINGSTON, EH54 7GE (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Elizabeth Williams (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 £9,603.55 should be made in favour of the Applicant.

Background

1. By application received on 5 March 2025, the Applicant applied to the Tribunal for an order for payment of £5715.52 plus interest at the rate of 4% and expenses if deemed appropriate against the Respondent in respect of rent arrears. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement and a Rent Statement. An application for recovery of possession of the property in terms of Grounds 12 (rent arrears over a period of three consecutive months) of Schedule 3 to the 2016 Act of rent arrears was submitted at the same time and was conjoined with this application. Both applications thereafter proceeded together through the Tribunal process.

2. Following initial procedure, on 31 March 2025, 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. A Case Management Discussion ("CMD") was fixed for 27 August 2025. The application and details of the CMD scheduled were served on the Respondent by Sheriff Officer on 14 July 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations but none were lodged prior to the CMD.
4. On 15 July 2025 and 4 August 2025, applications to increase the sum sought in the payment application to £8,939.67 and then to £9,603.55 were submitted on behalf of the Applicant. Updated supporting Rent Statements were also submitted on 15 July 2025 and 22 August 2025 and all were copied to the Respondent by the Applicant on submission to the Tribunal.

Case Management Discussion

5. The CMD took place by telephone conference call on 27 August 2025 at 10am. In attendance was Mr Kenneth Caldwell, Solicitor, of Patten & Prentice LLP on behalf of the Applicant, who was accompanied by a trainee solicitor from that firm, attending as an observer only. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but he did not do so.
6. Following introductions and introductory remarks by the Legal Member, Mr Caldwell explained the background to the applications. He confirmed that, although he had not had any direct contact from the Respondent, the Respondent had contacted the Applicant's letting agents, Touchstone, around mid-August to offer a payment plan of £1,000 per month, commencing on 29 August 2025. However, payment was offered on the basis that the eviction application was withdrawn which, in the circumstances, the Applicant was not willing to do. Mr Caldwell explained that the tenancy had begun in October 2023 and rent was paid, with one monthly payment missed, until June 2024. The last payment made was in June 2024 and since then, there have been no payments made, no payments offers (until very recently) and no explanation for the arrears. The arrears now amount to £9,603.55. Reference was made to the most recent rent statement lodged on 22 August 2025 and to the applications he had submitted in both July and August 2025 to increase the sum sought.
7. Mr Caldwell confirmed that there have been regular communications sent to the Respondent to try and engage with him regarding the arrears, in terms of the 'pre-action protocol'. The Applicant's letting agents did three-stage letters to the Respondent, before instructing Mr Caldwell who then issued a detailed communication to the Respondent and, on hearing nothing, proceeded to issue the Notice to Leave in respect of the proposed eviction proceedings on behalf of the Applicant. The arrears at that time were just over £5,000. However, the Respondent did not respond or engage and hence, the eviction application was

submitted to the Tribunal after the notice period had expired, together with this payment application.

8. As to the Respondent's circumstances, he is understood to be a 34 year old building site manager who lives alone. In his application for the tenancy, he stated that he was recently separated and had two children, aged 12 and 10, although they were understood not to live with him, although he may have had contact with them. The Respondent had alluded to the Applicant that he had some physical and mental health issues but had not stated that this had impacted on his earnings or was the reason for the rent arrears. Although it was noted from the Rent Statement that the first payment to the account appeared to have been made by West Lothian Council on behalf of the Respondent to cover the first months' rent and the deposit, Mr Caldwell did not know the background to that but did state that there had been no indication to the Applicant that the Respondent was in receipt of any state benefits.
9. Mr Caldwell requested that the Tribunal grant the payment application in the increased sum sought of £9,603.55 plus interest at the rate of 4% to apply from the date of the order. He was not seeking any expenses in the circumstances. He stated that the interest sought did not have a contractual basis, in terms of the tenancy agreement but considers the rate sought to be a fair reflection of current bank rates.
10. The Tribunal Members adjourned to discuss the applications in private. On re-convening, it was confirmed that the Tribunal was satisfied that the payment application was in order and that the Tribunal would therefore grant an order in the sum sought of £9,603.55. It was explained that the Tribunal had opted not to apply interest thereon. There was some brief discussion regarding the procedures to follow. Mr Caldwell was thanked for his attendance and the CMD was concluded.

Findings in Fact

1. The Applicant is the landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 27 October 2023.
3. The rent due in respect of the tenancy was originally £595 per calendar month, but has since been increased to £640.81 as from August 2024 and then to £663.88 as from August 2025.
4. Rent was initially paid regularly, with one monthly payment missed, until June 2024.
5. The last payment made towards rent amounted to £595 on 5 June 2024.

6. No payments have since been made and arrears have been accruing continuously since then.
7. Arrears amounted to £5,074.71 when the Notice to Leave was served in January 2025 in the eviction application, £5,715.52 when this application was lodged in March 2025 and now amount to £9,603.55.
8. The Applicant's agents and legal representative have sought to engage with the Respondent concerning the rent arrears and issued several communications to him in respect of the 'pre-action protocol'.
9. The Tribunal Application was submitted on 5 March 2025.
10. The Respondent has remained in occupation of the Property.
11. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
12. The Respondent contacted the Applicant's letting agent around mid-August 2025, confirming his intention to start making payments but settlement terms were not agreed and no payments have been made to date.
13. The Respondent did not lodge any written representations with the Tribunal, not seek time to pay, 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, the procedural background to the application and to the oral representations at the CMD by the Applicant's solicitor.
2. The Tribunal found that the application was in order and that the sum of £9,603.55 was owing by the Respondent in respect of rent arrears, in terms of this application. The original sum sought had been increased twice during the process by way of requests to increase the sum sought made on behalf of the Applicant, in terms of Rule 14A of the Regulations. Both requests were timeously made and intimated directly to the Respondent by email. The Tribunal had regard to the terms of the tenancy agreement, rent increase notice documentation and the Rent Statements produced and were satisfied that the amount sought, with reference to the most up to date Rent Statement was correct.
3. The Tribunal had no material before it to contradict the Applicant's position nor advance any arguments on behalf of the Respondent in respect of the sum claimed, nor to request time to pay. The Respondent had been properly and timeously served with the Tribunal paperwork by way of Sheriff Officer service. The Respondent had not submitted any representations to the Tribunal and nor

did he attend the CMD. The Tribunal was accordingly satisfied that the sum of £9,603.55 was due to the Applicant in unpaid rent and had not been paid by the Respondent. The Tribunal also determined that an order for payment in the amount sought in respect of rent arrears could properly be granted at the CMD and that there was no need for an adjournment to a further hearing. The Tribunal, having considered the Applicant's request for interest to be added at the rate of 4% to apply from the date of the order, declined to exercise their discretion and add same, in the circumstances of this application

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.

Nicola Weir

Legal Member/Chair

27 August 2025
Date