



**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/24/5183**

**Re: Property at Flat 1/1 17 Roslea Drive, Glasgow, G31 2LQ (“the Property”)**

**Parties:**

**Mr Michael Dunlop, Flat 2/6 1 Hanson Park, Glasgow, G31 2HA (“the Applicant”)**

**Mr Declan Cox, Flat 1/1 17 Roslea Drive, Glasgow, G31 2LQ (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (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 that an order for payment should be granted.**

**Background**

1. On 11th November 2024 the Applicant lodged an application under Rule 111 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking payment of a sum of rent arrears.
2. Lodged with the Application were:
  - a. Copy Private Residential Tenancy dated 7th June 2024 and showing a rent of £875 per month
  - b. Rent Statement showing arrears of £4375 as at 31st October 2024
3. The Application was served on the Respondent by Sheriff Officer on 18th March 2025.
4. On 3rd April 2025 the Applicant’s solicitor sent an email to the Tribunal seeking to amend the sum sought to £8750 and lodging an updated rent statement and proof that the application to amend had been served on the Respondent.

## **Case Management Discussion**

5. The Case Management Discussion (“CMD”) took place on 15th May 2025 by teleconference. The Applicant was represented by Miss Callaghan of TC Young, Solicitors and the Applicant was also on the call. The Respondent dialled in and represented himself.
6. The case called along with an eviction application between the same parties with reference FTS/HPC/EV/24/5180. That case was continued to a hearing and it was decided that the CMD for this case should be continued to the same day.

## **Subsequent to CMD**

7. On 28<sup>th</sup> August 2025 the Applicant’s solicitor lodged an Inventory of Productions containing a number of documents and including an up to date rent statement showing that the arrears stood at £13,125 on 31<sup>st</sup> August 2025.
8. On 12<sup>th</sup> September 2025 the Respondent sent an email to the Tribunal at 5pm precisely to say that he would not be able to attend the Hearing as he was medically unfit. He said that he had refused to go to A& E and had been advised to stay in bed. He said that he was waiting for a call from the hospital to tell him if he had a bed and if he had not he would need to go to the Medical Assessment Unit. He said that he was having investigations for issues with his kidneys. He said that he could provide a redacted medical letter and he would have a nurse call the Tribunal office on the day of the Hearing.
9. The Respondent called the Tribunal office on the morning of the hearing and said he was having an operation on Wednesday. He did not provide the redacted letter, nor did a nurse call the Tribunal office.

## **Hearing**

10. The Hearing took place in person at the Glasgow Tribunal Centre. The Applicant was represented by Miss Donnelly of TC Young, Solicitors. The Applicant was also present. The Respondent did not attend.
11. The Tribunal had to decide whether to proceed in the absence of the Respondent. The Tribunal noted that nowhere in his email of 12<sup>th</sup> September 2025 did the Respondent seek an adjournment or postponement of the Hearing. In term of Rule 29 the Tribunal can proceed with the Hearing in the absence of a party if the Tribunal is satisfied that the notice requirements have been complied with. Given that the Respondent had referred to the Hearing in his email the Tribunal was so satisfied.
12. In terms of Rule 28 the First-tier Tribunal at its discretion may, on its own initiative or on an application by a party, at any time, adjourn or postpone a hearing. The Tribunal considered whether it should adjourn or postpone in the

circumstances, having regard to the Tribunal's overriding objective to act justly, in terms of Rule 2.

13. The Tribunal decided that it must have regard paragraph (e) of Rule 2, which states that the Tribunal should avoid delay, so far as compatible with the proper consideration of the issues.
14. The Tribunal noted that at the CMD the Respondent had alleged that he paid rent in cash to the Applicant. As this was effectively an allegation of fraud made against the Applicant. The Tribunal issued a detailed Direction to the Respondent seeking a detailed statement with full specification of the allegation made, and documentation to back that up. The Respondent was to lodge the information by 16<sup>th</sup> July 2025. He failed to do so. He has therefore not co-operated with the Tribunal procedure and has not laid out his position as to why rent, which he accepted at the CMD that he had an obligation to pay, has not been paid. In those circumstances it would not be just to adjourn or postpone the Hearing.

## **Hearing**

15. The Hearing took place in person at the Glasgow Tribunal Centre. The Applicant was represented by Miss Donnelly of TC Young, Solicitors. The Applicant was also present. The Respondent was not present.
16. Miss Donnelly moved for a payment order in the amended sum of £13125. She also asked for interest at the rate of 8% per annum. She said that there was no contractual right to interest, but it was mentioned in the Form F that the Applicant would be seeking it. The Tribunal decided that it was appropriate in the circumstances to award interest, and decided that 4%, being the current base lending rate, was appropriate.

## **Findings in Fact**

- i. The parties entered in to a tenancy agreement for rent of the property;
- ii. The monthly rent was £875;
- iii. The current arrears are £13125.

## **Reasons for Decision**

The Respondent owes rent to the Applicant in the amount of £13125. It is appropriate to award interest at 4% per annum.

## 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.

# Alison Kelly

15/09/2025

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Legal Member/Chair

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Date