



**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/25/1353**

**Re: Property at 5 Tarbert Place, Polmont, FK2 0YX (“the Property”)**

**Parties:**

**Mr Christopher Brown, 93 Erskine Hill, Polmont, FK2 0UH (“the Applicant”)**

**Mr Michael Lynch, 5 Tarbert Place, Polmont, FK2 0YX (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Tony Cain (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 £6,990 should be made in favour of the Applicant.**

**Background**

1. By application received on 31 March 2025, the Applicant applied to the Tribunal for an order for payment of £3,390, plus interest, 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 16 April 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 8 October 2025 at 10am. The application and details of the CMD scheduled were served personally on the Respondent by Sheriff Officer on 22 August 2025. In terms of said notification, the Respondent was given an opportunity to lodge written representations by 11 September 2025 but none were lodged prior to the CMD.
4. On 23 September 2025, an application to increase the sum sought in the payment application from £3,390 to £6,990 was submitted on behalf of the Applicant by email, also copied directly to the Respondent by the Applicant on submission to the Tribunal. An updated supporting Rent Statement was also submitted. On receipt, the Tribunal also intimated a copy of same to the Respondent.

### **Case Management Discussion**

5. The CMD took place by telephone conference call on 8 October 2025 at 10am. In attendance was Ms Alexandra Wooley of BKF & Co, solicitors on behalf of the Applicant. The Tribunal delayed commencement of the CMD for 5 minutes to give the Respondent an opportunity to join late but they did not do so.
6. Following introductions and introductory remarks by the Legal Member, Ms Wooley provided an update on the applications. She confirmed that nothing has been heard from the Respondent in recent times and that no further payments towards rent have been received since the date of the most recent rent statement. The Respondent is understood still to be living at the Property. Both orders are still sought. Ms Wooley then addressed both applications and the Tribunal Members asked her a number of questions throughout.
7. Ms Wooley made reference to the supporting paperwork and confirmed that the rent arrears currently stand at £6,990, having been in existence since October 2024, a year ago. The amount claimed has been increased by way of application on behalf of the Applicant on 23 September 2025 from the amount originally sought of £3,390 to £6,990. There have been no payments made to the rent account by the Respondent since February 2025. No payment proposals have been made and no explanation provided by the Respondent for the arrears. The Applicant is 75 years old and retired. He relies on the rental income to supplement his pension. He has three rental properties, two of which are in Scotland and one in England. The Applicant no longer wishes to be a landlord and it is his intention to sell this Property if he recovers it and to use the proceeds as additional income. As to the Respondent’s circumstances, Ms Wooley advised that the Applicant is not aware of anyone else living at the Property with him, nor of any health conditions that he may have. His age is not known and nor is his current employment status as he has sometimes stated in the past that he was working but, at other times, that he was not. The Applicant is not aware as to whether the Respondent is in receipt of any state benefits or if he has made any efforts to find alternative

housing. Ms Wooley referred to the 'pre-action protocol' letters lodged with the eviction application and explained that further such letters have been issued on behalf of the Applicant more recently, dated 28 August 2025 and 1 October 2025. However, the Respondent has failed to engage with the Applicant.

8. Ms Wooley requested that the Tribunal grant the payment application in the increased sum sought of £6,990 plus interest at the rate of 4% to apply from the date of the order. She confirmed that there was no contractual basis for seeking interest but rather that she was requesting that the Tribunal exercise their discretion to do so, in terms of Rule 41A of the Regulations. She submitted that this was a reasonable rate of interest, given that it accords with current bank base rates and given the length of time the rent has been in arrears and the lack of engagement from the Respondent in seeking to resolve same.
9. The Tribunal Members adjourned to discuss the applications in private. On reconvening, 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 £6,990. It was explained that the Tribunal had opted not to apply interest thereon, in the circumstances of this case. There was some brief discussion regarding the procedures to follow. Ms Wooley was thanked for her attendance and the CMD was concluded.

## **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 10 April 2019.
3. The rent due in respect of the tenancy was originally £550 per calendar month but had been increased twice during the tenancy, firstly to £560 and then to £600 which applied from July 2024 onwards.
4. There was a background of rent arrears accruing from October 2024, with several months of rental payments missed altogether.
5. The last payments made towards rent were in February 2025, amounting to £210 in total, and no payments have been made since.
6. Arrears amounted to £2,400 when the Notice to Leave was served in January 2025 in the eviction application, £3,390 when this application was lodged in March 2025 and now amount to £6,990.
7. The Applicant's representatives have sought to engage with the Respondent concerning the rent arrears and issued several communications to them in respect of the 'pre-action protocol' in the eviction application and further communications since.

8. There has been little engagement from the Respondent and no explanation or payment proposals offered by the Respondent.
9. This Tribunal Application was submitted on 31 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 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 £6,990 was owing by the Respondent in respect of rent arrears, in terms of this application. The original sum sought had been increased during the process by way of a request to increase the sum sought made on behalf of the Applicant, in terms of Rule 14A of the Regulations. The request had been timeously made and intimated directly to the Respondent by email by the Applicant's representative and also notified to the Respondent by the Tribunal. 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 £6,990 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 in terms of Rule 41A and add same, in the circumstances of this application. There was no contractual basis for the interest claim in terms of the tenancy agreement and

the Tribunal was unaware of the circumstances of the Respondent or the reason(s) for non-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.**

**Nicola Weir**

**Legal Member/Chair**

**Date: 8<sup>th</sup> October 2025**