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/24/4486

Re: Property at 20 Elizabeth Street, Dunfermline, KY11 4AY ("the Property")

Parties:

AM Property Invest Ltd, 4 Wangey Road, Romford, Essex, RM6 4DD ("the Applicant")

Mr Peter Smith, 20 Elizabeth Street, Dunfermline, KY11 4AY ("the Respondent")

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

- Background

This is an application for an order for payment of rent arrears alleged to be owed by the Respondent in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion ('CMD') at 2pm on 18 November 2025, by teleconference. The Applicant was represented on the call by Mrs Ward of Kee Solicitors. The Respondent was not on the call or represented. The commencement of the CMD was delayed by 10 minutes in case he was experiencing any technical difficulty; but there remained no contact from him.

The matter previously called on 1 July 2025 for a CMD, at which the Respondent also did not attend. Notice of this calling was given by advertisement on the Tribunal's website placed on 22 October 2025. The matter therefore being unopposed, the Tribunal considered it was fair to proceed in the Respondent's absence.

- Findings in Fact

The Tribunal considered the following unopposed facts as relevant to its decision:

1. The Respondent let the Property in terms of a private residential tenancy agreement with a start date of 1 December 2021.

2. The Applicant acceded to the landlord's interest in the tenancy upon purchase of the Property on 10 November 2023.

3. At the time the Applicant became the landlord, in terms of the tenancy agreement, rent of £550 was due on the 1st day of each month.

4. The rental charge was increased to £616 per month from 1 August 2024.

5. There is no provision in the tenancy agreement for interest to be applied to any outstanding sum.

6. The Respondent has not paid rent since 1 March 2024.

7. As at 16 June 2025, the Respondent's rent arrears stood at £9,526.

8. The tenancy was terminated on 4 September 2025.

- Reasons for Decision

9. The application had originally been raised seeking the sum of £3,982. The Applicant's representative had sent an email to the Tribunal on 17 June 2025,

seeking (among other things) to amend the sum sought to £9,526. This communication was sent to the Respondent on the same date by recorded delivery and showed as being received by him on 20 June 2025. That meant that, at the date of the previous CMD, the Respondent had not received sufficient notice of the proposed amendment for it to be considered by the Tribunal. There has now been sufficient notice given and, there being no opposition to the amendment being allowed, the Tribunal granted that application.

10. The amount of rent arrears outstanding being now in excess of the sum sought (as amended), an order for payment of the sum sought was made.

11. The Applicant had also asked the Tribunal to make the award subject to interest. The Tribunal declined to do so. The parties did not agree that outstanding sums would be subject to interest in the tenancy agreement, and they could not therefore have expected interest to be applicable to such sums. No conclusion for interest was set out in the application, nor was any notice given of what rate would be sought by reference to the base rate, or any other figure. The Tribunal therefore considered that the Respondent did not have fair notice of what rate would be sought.

12. In addition, the matter originally called conjoined with an application for an eviction order. That order was granted, at least in part, on the basis that the Respondent would not be able to address the rent arrears he had amassed. In those circumstances, the Tribunal considers it would be unduly and pointlessly punitive to apply interest to this order.

13. The Applicant also asked the Tribunal to award expenses against the Respondent. It refused this request. Rule 40 of the Tribunal's rules of procedure is clear that such an award may be made, "only where that party through unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense." There has been nothing unreasonable about the conduct of this case by the Respondent, so the application falls at the first hurdle.

- Decision

<u>**Order granted for payment by the Respondent to the Applicant of the sum of NINE THOUSAND, FIVE HUNDRED AND TWENTY-SIX POUNDS STERLING (£9,526).**</u>

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.

Nairn Young

18.11.25

Legal Member/Chair

Date