



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17(4) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 111 of the Rules**

**Chamber Ref: FTS/HPC/CV/25/2669**

**Re: Property at Flat 2/1, 40 Burnbank Road, Hamilton, Lanarkshire, ML3 9AQ (“the Property”)**

**Parties:**

**Mrs. Elizabeth McCutcheon residing at 14 Ochiltree Drive, Hamilton, Lanarkshire, ML3 9NH and Mr. James Larkin residing at 5 Barr Grove, Uddingston, Lanarkshire, G71 6TL together the Executors Nominate of the late Miss Mary Higgins (“the Applicants”) per their agents, Whyte Fraser Limited, solicitors, PO Box 19118, Motherwell ML1 9FU (“the Applicants’ Agents”)**

**Miss Coleen Devlin, Flat 2/1, 40 Burnbank Road, Hamilton, Lanarkshire, ML3 9AQ (“the Respondent”) per her representative, Hamilton Citizens Advice Bureau (“the Respondent’s Representatives”)**

**Tribunal Members:**

**Karen Moore (Legal Member) and Gordon Laurie (Ordinary Member)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Order in the sum of FIVE THOUSAND NINE HUNDRED AND FIFTY POUNDS (£5,950.00) Sterling as sought.**

## **Background**

1. By application received between 19 June 2025 and 24 July 2025 (“the Application”), the Applicants’ Agents applied to the Tribunal for an Order for payment of rent due and owing by the Respondent to the Executory Estate of the late Miss Higgins.
2. The Application comprised the following:
  - i) copy private residential tenancy agreement between the late Miss Higgins and the Respondent showing an initial monthly rent of £350.00 and an entry date of 7 March 2020;
  - ii) copy rent statement showing arrears of £3,500.00 due and owing at May 2025 and
  - iii) pre-action requirement letters sent to the Respondent.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 8 December 2025 at 14.00 by telephone conference and intimated to the Parties. Prior to the CMD, the Applicants’ Agents lodged an updated rent statement amending the rent due and owing to £5,950.00 to the date of the CMD.

## **CMD**

4. The CMD took place on 8 December 2025 at 14.00 by telephone. The Applicants were both present and were represented by Mr. Buttery of the Applicants’ Agents. The Respondent was not present and was represented by Mr. Martin Roberts of the Respondent’s Representatives.
5. Application EV/25/2658 relating to the same Parties and Property was heard at the CMD.

6. The Tribunal explained that the purpose of the CMD was to discuss the Applications, to determine if further procedure was required or if a decision could be made by the Tribunal. In that regard, Mr. Roberts advised that the Application was not opposed and that the Respondent, Ms. Devlin, accepted the sum sought as due and owing by her. He advised that arrears of rent accrued after Miss Higgins' death as Ms. Devlin was unsure where to make payment. Mr. Roberts explained that Ms. Devlin is now receiving advice and assistance from Money Matters.

### **Findings in Fact**

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
  - i) There is a private residential tenancy of the Property between the Respondent and the late Miss Higgins commencing on 7 March 2020 at a monthly rent of £350.00;
  - ii) There are rent arrears of £5,950.00 equating to 17 months' rent as at the date of the CMD.

### **Decision and Reasons for Decision**

8. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussion .....including making a decision*". The Tribunal took the view that it had sufficient information to make a decision and so proceeded to determine the Application.
9. The Tribunal had regard to the facts that the Respondent accepts that the sum of £5,950.00 is due and owing by her and that she does not oppose the Application. Accordingly, the Tribunal granted the Order as sought.
10. This decision is unanimous.

### **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.

# Karen Moore

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Legal Member/Chair

8 December 2025

Date