



**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/25/0644**

**Re: Property at Flat 7, 7 Seacole Square, Edinburgh, EH16 4ZF (“the Property”)**

**Parties:**

**PFPC MMR 1, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Ms Rabiah Butt and Ms Ayshah - Ayub Butt, both of Flat 7, 7 Seacole Square, Edinburgh.EH16 4ZF (“the Respondents”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision (In Absence of the Respondents)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of Seven Thousand Five Hundred and Sixty-Seven Pounds and Seventy-One Pence (£7567.71) be made in favour of the Applicant and against the Respondents with interest at the rate of 4% per annum until paid.

**Background**

1. This application for a payment order in terms of the Tribunal rules of procedure was first lodged with the Tribunal on 14<sup>th</sup> February 2025 and accepted by the Tribunal on 14<sup>th</sup> March 2025. A case management discussion was fixed for 25<sup>th</sup> August 2025 at 10am for this application and the conjoined application for an eviction order with reference FTS/HPC/EV/0637.

**The Case Management Discussion**

2. The case management discussion was attended by Mr Caldwell, solicitor of Patten and Prentice Solicitors, who represented the Applicant’s agents Touchstone. He was

joined on the call by one of his colleagues who was observing. The Respondents did not attend nor were they represented. The Tribunal had sight of an execution of service of both applications, supporting papers and the time of the case management discussion which had been served on both Respondents by Sheriff Officer leaving these in the hands of the Respondents' mother at the property on 10<sup>th</sup> July 2025. The Tribunal was satisfied that it was appropriate to proceed in the absence of the Respondents given that they had been given notice of the applications and the date of the case management discussion

3. The Tribunal had sight of the applications, a tenancy agreement, pre action protocol letters and for both Respondents, a Notice to Leave the property, proof of delivery of the Notice to Leave, a notice in terms of section 11 of the Homelessness etc. (Scotland) Act 2003 together with an email sending this to the local authority, emails sent to the Respondents, four rent increase notices, a number of rent statements and a letter dated 18<sup>th</sup> August 2025 from the Applicant's solicitor to the Tribunal advising of up-to-date information received regarding the Respondents.

4. The parties had entered into a private residential tenancy at the property, with effect from 8<sup>th</sup> October 2021. Monthly rent payable in terms of the tenancy agreement was initially £775.00 per month and was increased to £816.85 per month with effect from 1st May 2022, then increased to £841.36 per month with effect from 4<sup>th</sup> July 2023, then increased to £875.00 per month in July 2024 and finally increased to £896.89 per month in July 2025.

5. Mr Caldwell advised the Tribunal that the Respondents are two sisters whose parents were understood to own a property in Edinburgh, but it was understood that the Respondents had chosen to rent to have more space. It was believed that the second Respondent may have moved out of the property some 2 years before the case management discussion, but it was understood that the First Respondent still lived at the property. There had been a request made by the first Respondent's husband to take over the tenancy, but this had been declined due to the accrued rent arrears. The Applicant's solicitor has received emails from both of the Respondents indicating that they wished to terminate the tenancy with effect from 30<sup>th</sup> August 2025 and that all belongings would be removed from the property and the keys returned.

6. Mr Caldwell indicated that he wished to seek a payment order in the sum of £7567.71, being the accrued rent arrears up to and including the outstanding rent for August 2025. The application has been made for a lesser sum which had been due in February 2025, but it sought in addition "any sum which might become due", and on 19<sup>th</sup> August 2025, the Applicant's solicitor had advised the Tribunal of the updated sum due by way of rent arrears of £7567.71, and the Respondents had been copied into the email. The Tribunal considered it was appropriate to consider making a payment order for the updated sum said to be due as the Respondents had been given notice of this sum. Mr Caldwell was also seeking 4% interest on the sum due.

## **Findings in Fact**

7. The parties entered into a private residential tenancy at the property with effect from 8<sup>th</sup> October 2021.

8. Rent payable in terms of the tenancy was initially £775.00 per month, and this was increased to £816.85 per month in 2022, then increased to £841.36 per month in 2023 then to £875,00 per month in 2024 and finally to £896.89 in 2025.

9. All rent increases were properly intimated to the Respondents in advance of the increases taking effect giving them the required statutory notice.

10. At no stage during the tenancy was the Applicant or their agents ever advised that the rent arrears had accrued due to a delay or failure in the payment of a relevant benefit to or on behalf of the Respondents.

11 Pre-action protocol letters were emailed to the Respondents on behalf of the Applicant on 11<sup>th</sup> February 2025, and these signposted the Respondents to sources of support in respect of payment of the rent arrears.

12. In 2025 the first Respondent's husband requested that the tenancy be put in his name, but this was declined by the Applicant due to rent arrears accrued during the tenancy.

13. On 18<sup>th</sup> and 19<sup>th</sup> August 2025, the Respondents emailed the Applicant's agents to advise that they would leave the property and remove their belongings by 30<sup>th</sup> August 2025.

14. In August 2025 the rent arrears total £7567.71, and these have accrued since early in the tenancy.

15. No attempts have been made to repay the rent arrears accrued by the Respondents to the Applicant and the sum of £7567.71 is lawfully due by the Respondents to the Applicant in terms of the tenancy.

## **Reasons for Decision**

The Tribunal was satisfied that it was appropriate to make a payment order against the Respondents and in favour of the Applicant given that there has been no attempt to repay the rent arrears which have accrued over some time. Interest at 4% per annum was added to the payment order to reflect the use value of the sum due.

## **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that a payment order in the sum of Seven Thousand Five Hundred and Sixty Seven Pounds and Seventy-One Pence (£7567.71) be made in favour of the Applicant and against the Respondents with interest at the rate of 4% per annum until paid.

## **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**

Valerie Bremner

**25.8.25**

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**Legal Member/Chair**

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**Date**