



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/21/0702**

**Re: Property at 8/3 Croft Road, Hawick, TD9 9RD (“the Property”)**

**Parties:**

**Mrs Elaine Kellington, Castleview, Birgham, Coldstream, Scottish Borders, TD12 4NF (“the Applicant”)**

**Mr John Maxwell, 8/3 Croft Road, Hawick, TD9 9RD (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order in the sum of Two thousand one hundred and ninety nine pounds and one pence (£2199.01) Sterling.**

**Background**

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- 1 By application to the Tribunal the Applicant sought an order against the Respondent for unpaid rent arrears. In support of the application the Applicant submitted Tenancy Agreement and Rent Statement.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 10 May 2021. Due to the imposition of restrictions arising from the Covid-19 pandemic a direction was issued to the parties by the Chamber President confirming that the Case Management Discussion would take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and

instructions on how to join the teleconference was intimated to the Respondents by Sheriff Officers.

### **The Case Management Discussion**

- 3 The Case Management Discussion took place by teleconference on 10 May 2021. Mrs Caitlin Tofts from Catford Investments Ltd appeared on behalf of the Applicant. The Respondent was not in attendance. The Legal Member was satisfied that proper notification of the date and time of the Case Management Discussion had been given to him, together with instructions for joining the conference call. The Legal Member therefore determined to proceed with the Case Management Discussion in his absence.
- 4 The Legal Member explained the purpose of the Case Management Discussion and asked Mrs Tofts to address her on the Applicant's position. Mrs Tofts confirmed that the Applicant sought an order for payment in the sum of £2199.01. The Respondent had stopped paying rent in October 2020. He had initially made a payment offer, having sought advice from the Citizens Advice Bureau however no payments were made. The Respondent was still residing in the property and the Applicant was now receiving some direct payments via universal credit however these did not cover the monthly rent. Letters were being sent to the Respondent on a monthly basis to no avail.

### **Findings in Fact and Law**

- 5 The parties entered into a Tenancy Agreement which commenced on 14 August 2020.
- 6 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 7 In terms of Clause 8 of the said Tenancy Agreement the Respondent have a contractual obligation to pay rent of £450 per month.
- 8 The last payment of rent made by the Respondent to the Applicant was in October 2020.
- 9 As at 10 May 2021, arrears of rent in the sum of £2199.01 are outstanding.
- 10 The Respondent is due to pay the sum of £2,199.01 to the Applicant in terms of the Tenancy Agreement between the parties.

### **Reasons for Decision**

- 11 Having considered the written representations from the parties and the verbal submissions at the Case Management Discussion the Tribunal determined it could make a determination of the application and that to do so would not be prejudicial to the interests of the parties. There were no issues in dispute and therefore no requirement for a hearing to be fixed.
- 12 Having considered the terms of the tenancy agreement and rent statement produced by the Applicant, and based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £2,199.01. The Respondent had not sought to contradict the position put forward by the Applicant which the Tribunal found to be credible. The Tribunal therefore made an order for payment in that sum.

### **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.**

Ruth O'Hare

**Legal Member/Chair**

**10 May 2021**

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**Date**