



**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/21/1111**

**Re: Property at 3-5 Commerce Street, Flat 8, Arbroath, DD11 1NA (“the Property”)**

**Parties:**

**Sunniside Homes Limited, Registered Office at Mortimer House, Holmer Road, Hereford, HR4 9TA (“the Applicant”)**

**Ms Charmaine Fergusson, 63 Priory Crescent, Arbroath, Angus, DD11 1TL (“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 for payment in the sum of Sum of One thousand eight hundred and thirty four pounds and sixty two pence (£1834.62) Sterling against the Respondent**

**Background**

- 1 By application dated 11 May 2021, the Applicant sought an order for payment of rent arrears in the sum of £1834.62 against the Respondent. In support of the application the Applicant provided:-
  - (i) Private Residential Tenancy Agreement between the parties dated 6 March 2018; and
  - (ii) Rent Statement showing arrears of £1834.62 as at 28 March 2019.
- 2 By Notice of Acceptance of Application the Legal Member of the Tribunal, with delegated powers from the Chamber President, determined that there were no grounds to reject the application. A Case Management Discussion

was therefore assigned for 14 October 2021 to take place by teleconference due to the ongoing restrictions arising from the Covid-19 pandemic.

- 3 The application paperwork was served upon the Respondent by Sheriff Officers on 14 September 2021. The paperwork contained notification of the date and time of the Case Management Discussion together with instructions for joining the teleconference.

### **Case Management Discussion**

- 4 The Case Management Discussion took place on 14 October 2021. The Applicant was represented by Hazel Young. The Respondent was not present.
- 5 The Legal Member explained the purpose of the Case Management Discussion. She noted that the application paperwork had been served upon the Respondent by Sheriff Officers, with details for joining the case conference. Accordingly the Legal Member was satisfied that the notification requirements had been complied with and determined to proceed with the Case Management Discussion in her absence.
- 6 Ms Young confirmed that the Applicant sought an order for payment in the sum of £1834.62. The Respondent had initially received housing benefit which did not cover her rent. The Applicant, in good faith, had therefore reduced the rent to £507 per month to reflect the housing allowance and remove the requirement for a top up payment from the Respondent. However the Respondent had made sporadic payments and had not paid over her housing benefit in full, which had led to increasing arrears. There had been no payments, nor any proposals for payment, forthcoming from the Respondent since leaving the property. She had left it in a poor condition, the keys were simply handed through the letterbox.

### **Findings in Fact**

- 7 The parties entered into a Private Residential Tenancy Agreement which commenced on 6<sup>th</sup> March 2018.
- 8 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £550 per month.
- 9 The tenancy terminated on 28 March 2019.
- 10 As at the date of termination, arrears of rent in the sum of £1834.62 were outstanding.

- 11 The Respondent is liable to pay the sum of £1834.62 to the Applicant under the terms of the tenancy agreement between the parties.
- 12 Despite repeated requests the Respondent has refused or delayed to make payment of the sum due.

### **Reasons for Decision**

- 13 The Tribunal was satisfied that it could make a determination of the application at the Case Management Discussion and that to do so would not be detrimental to the parties.
- 14 Based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £1834.62. The Tribunal accepted the evidence of the Applicants that the Respondent had a contractual obligation to make payment of rent at the rate of £550 per month. There was nothing before the Tribunal to contradict the position put forward by the Applicant.
- 15 The Tribunal therefore made an order for payment against the Respondent in the sum of £1834.62.

### **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

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**Legal Member/Chair**

**14<sup>th</sup> October 2021**

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**Date**