



**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/21/1274**

**Re: Property at 31 Pitreavie Court, Hamilton, ML3 8DD (“the Property”)**

**Parties:**

**Miss Jane Kinnaird, 17 Kirk Lane, Law, Carluke, ML8 5WH (“the Applicant”)**

**Mr Anthony Sweeting, 31 Pitreavie Court, Hamilton, ML3 8DD (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Miss E Munroe (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £3485 with interest thereon at the rate of 3% above the Bank of England base rate.**

**Background**

1. This is an application dated 27<sup>th</sup> May 2021, made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) seeking an order for payment in the sum of £2695 with interest thereon. The Applicant’s representative included with the application a copy of the tenancy agreement between the parties, which tenancy commenced on 16<sup>th</sup> February 2018 at a monthly rent of £395, copy Notice to Leave dated and served on 7<sup>th</sup> July 2020, copy section 11 notice served on 27<sup>th</sup> May 2021, rent schedule, and copy pre-action requirement letters dated 30<sup>th</sup> March and 7<sup>th</sup> April 2021.
2. Notification of the application and a Case Management Discussion set down for 3<sup>rd</sup> August 2021 was served upon the Respondent by Sheriff Officers on 29<sup>th</sup> June 2021.

3. An application to amend the sum sought to £3485 was made on behalf of the Applicant on 20<sup>th</sup> July 2021.

### **Case Management Discussion**

4. A Case Management Discussion (“CMD”) took place by telephone conference on 3<sup>rd</sup> August 2021. The Applicant was not in attendance and was represented by Ms Euphemia Matheson, Solicitor. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
6. Ms Matheson moved the Tribunal to increase the sum sought and grant the order. There has been no communication by the Respondent. Sporadic payments have been made in the past, but no rent has been paid for several months.

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

7.
  - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 16<sup>th</sup> February 2018 at a monthly rent of £395.
  - ii. Rent lawfully due in terms of the tenancy was not paid by the Respondent.
  - iii. The Applicant is entitled to recover rent lawfully due.

### **Reasons for Decision**

8. Rent lawfully due in terms of the tenancy agreement between the parties remains outstanding. The Applicant is entitled to recover rent lawfully due.

### **Decision**

9. An order for payment is granted in favour of the Applicant in the sum of £3485 with interest thereon at the rate of 3% per annum above the Bank of England base rate running from the date of the decision to grant the order until payment.

### **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.

**H. F**

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Legal Member/Chair

**3<sup>rd</sup> August 2021**  
Date