



**Decision 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/19/1938**

**Re: Property at 6 Picardy Court, Rose Street, Aberdeen, AB10 1UG (“the Property”)**

**Parties:**

**Mr Ian Fowler, 62 Gray Street, Aberdeen, AB10 6JE (“the Applicant”)**

**Mr Owain Davies, Unknown, Unknown (“the Respondent”)**

**Tribunal Members:**

**Petra Hennig-McFatridge (Legal 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 of the sum of £3,300 rent arrears with interest thereon at the rate of 4% per annum above the HSBC Plc base rate from time to time, running from the date of the decision of the First-tier Tribunal to grant this order, being 15 August 2019, until payment should be granted.

**Procedural Background:**

The application was made on 20 June 2019. The application asked for payment of the sum of £3,690.32 for rent arrears in respect of the property together with interest at the rate of 4% above the HSBC Plc base rate.

Attached to the application were:

1. Authorisation letter from co-owner of the property
2. the Private Rented Tenancy Agreement for tenancy commencing 5 January 2019
3. Copy eviction application to the First tier Tribunal (the Tribunal) dated 13 May 2019

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4. Copy Notice to Leave dated 6 April 2019
5. Printout of payments for the property up to May 2019
6. Request for service by Advertisement dated 20 June 2019

A Case Management Discussion (CMD) was scheduled for 15 August 2019 and both parties advised of the date, time and venue.

The Tribunal confirmed service by Advertisement in terms of Rule 6 A of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (the Rules) from 4 July 2019 to 15 August 2019. The Tribunal thus considers that the appropriate notice has been given to the Respondent.

No representations were received from the Respondent. The Respondents had not contacted the Tribunal prior to the CMD and did not attend.

The Tribunal was satisfied that he had been appropriately notified of the application and the CMD.

### **The Case Management Discussion**

The Applicant attended the CMD. The Respondent did not attend. The Applicant advised the Tribunal that no further payments had been received but that the deposit of £550 had been released to him in full. The monthly rental payment is due on or before the 5<sup>th</sup> day of each calendar month. Thus the arrears as at the date of the CMD are £550 per month for the months of February, March, April, May, June, July and August 2019 less the £550 received from the released deposit. The arrears thus stand at £3,300. The Applicant confirmed he was content for interest payments at the rate stated in Clause 7.1.2 of the tenancy agreement to be applied from the date of the decision.

He referred the Tribunal to the documents lodged with the application, which are referred to for their terms and held to be incorporated herein. He further explained that the arrears arose after the initial payment of rent and deposit prior to the Respondent moving in. Since then no rent has been paid and the property appears to be abandoned. The Respondent has not made any attempt to repay the arrears and has not been in touch after the last exchange of texts on 22 March 2019.

There were no representations from the Respondent.

### **Findings in Fact:**

1. **The parties entered into a Private Residential Tenancy for the property with a start date of 5 January 2019 (clause 2).**
2. **Rent of £550 per month is payable in advance on the 5<sup>th</sup> of the month (clause 3)**
3. **After 5 January 2019 no payments were received.**
4. **The Respondent has not made any payments towards the arrears.**
5. **The deposit of £550 has been released to the Applicant.**
6. **The outstanding amount as of 15 August 2019 is £3,300.**
7. **Interest at 4% per annum above HSBC Plc base rate from time to time is due on unpaid rent (clause 7.1.2)**

## **Reasons for the Decision:**

The Tribunal make the decision on the basis of the written evidence lodged by the Applicant and the information given at the hearing by the Applicant.

### **In terms of Rule 17 of the Rules of Procedure:**

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

(c) raising with parties any issues it requires to be addressed;

(d) discussing what witnesses, documents and other evidence will be required;

(e) discussing whether or not a hearing is required; and

(f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

### **However, in terms of Rule 18 of the Rules of Procedure:**

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

The Respondent did not make any written representations and did not attend the CMD. The Tribunal did not consider that there was any need for a hearing as the facts of the case were not disputed and the evidence was sufficient to make the relevant findings in fact to determine the case.

The rent outstanding as of the date of the CMD based on the amounts paid as per the rental printout and the rent charge of £550 per calendar month, the released deposit and the information from the Applicant at the CMD is £3,300. The application asked for payment of £3,300 together with interest at the rate stated in the tenancy agreement in clause 7.1.2. There was no valid defence to the action. It is not in

dispute that the sum of rent arrears and interest are due by the Respondents to the Applicant.

The Applicant is entitled to payment of the sum of £3,300 by the Respondent together with interest at the rate stated in the tenancy agreement.

**Decision:**

**The Tribunal grants an order for payment of the sum of £3,300 with interest thereon at the rate of 4% per annum above the HSBC Plc base rate from time to time, running from the date of the decision of the First-tier Tribunal to grant this order, being 15 August 2019, 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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

Petra Hennig-McFatrige

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**Legal Member/Chair**

15.8.19  
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**Date**