

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules)**

**Chamber Ref: FTS/HPC/CV/21/1390**

**Re: Property at 14 F 7 Hawkhill Close, Edinburgh, EH7 6AL (“the Property”)**

**Parties:**

**Mr Zahid Khan, 15 Willowbrae Avenue, Edinburgh, EH8 7HB  
 (“the Applicant”)**

**TC Young Solicitors, 7 West George Street, Glasgow, G2 1BA  
 (“the Applicant’s Representative”)**

**Mr Ratal Klocek and Mrs Aneta Klocek, 14 F 7 Hawkhill Close, Edinburgh, EH7 6AL  
 (“the Respondent”)**

**Tribunal Members:**

**Ms Susanne L M Tanner Q.C. (Legal Member)  
 Ms Janine Green (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay the Applicant the sum of SIXTEEN THOUSAND EIGHT HUNDRED POUNDS (£16,800) STERLING; and made an Order for Payment in respect of the said sum**

## **STATEMENT OF REASONS**

### **1. Procedural Background**

- 1.1. The Applicant's Representative made an Application to the tribunal on 9 June 2021 in terms of Section 16 of the 2014 Act and Rule 70 of the 2017 Rules, seeking an order for payment against the Respondent in the sum of £16,000 in respect of rent arrears.
- 1.2. The documentation with the Application comprised:
  - 1.2.1. Tenancy Agreement;
  - 1.2.2. AT5;
  - 1.2.3. Notice to Quit
  - 1.2.4. Section 33 Notice;
  - 1.2.5. Sheriff officers' execution of service relating to the notices;
  - 1.2.6. Section 11 notice
  - 1.2.7. Email to local authority intimating Section 11 notice; and
  - 1.2.8. Rent statement.
- 1.3. On 23 June 2021, the Application and documentation submitted with it was considered by the legal member of the tribunal with delegated powers of the Chamber President and was accepted for determination by the tribunal.
- 1.4. A Case Management Discussion ("CMD") was fixed for 13 August 2021 at 10.00 by teleconference.
- 1.5. By letter of 12 July 2021, parties were notified of the date, time and place of the CMD and were told that they were required to attend. Parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application, which may involve making or refusing a payment order. Parties were advised that if they do not attend the CMD that would not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondents were invited to submit written representations in response to the Application by 2 August 2021.
- 1.6. The Respondents were served with the Application and notification of CMD by Sheriff Officers.
- 1.7. The Respondents did not submit any written representations or make any contact with the tribunal up to and including the date of the CMD on 13 August 2021.

1.8. On 20 July 2021, the Applicant's Representative requested to amend the sum claimed to £16,800 in respect of rent arrears to 1 July 2021. The Application was granted by the tribunal.

## **2. CMD: 13 August 2021 at 1000h by teleconference**

2.1. Ms Kirsty Morrison from the Applicant's Representative attended.

2.2. The Respondents did not attend the hearing and made no contact with the tribunal's administration. The tribunal was satisfied in terms of Rule 29 of the 2017 Rules that the requirements of Rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the Applicant and all the material before it.

2.3. Ms Morrison referred to her Application and written submissions and supplemented them with oral submissions. In terms of clause 5 of the tenancy agreement the respondent undertook to pay rent to the Applicant at the rate of £800 per calendar month. The Respondents have fallen into arrears. The outstanding sum at date of making application was £16,000. The Applicant lodged an application to amend the sum claimed to £16,800 in respect of rent arrears to 16 July 2021. That was served on the Respondents and a copy was provided to the tribunal. The arrears have not further increased to £17,600 but that sum has not been intimated and the Respondents are not personally present so her motion was for the tribunal to grant an order for £16,800.

## **3. The tribunal makes the following findings-in-fact:**

3.1. There was a Short Assured Tenancy between the Applicant and the Respondents dated 21 November 2017.

3.2. The initial tenancy term was for the period 21 November 2017 until 21 November 2018. After that time the lease tacitly relocated on a two monthly basis until it ended on 21 March 2021 by service of a Notice to Quit.

3.3. The Applicants continue to reside in the Property.

3.4. The rent payable in terms of the lease was £800.00 per calendar month payable monthly in advance on the 21<sup>st</sup> of each month.

3.5. The rent arrears for the period to 21 July 2021 are £16,800.

#### **4. Decision**

4.1. The tribunal determined on the basis of the Application (including supporting documents) and the oral representations made on behalf of the Applicant; and in the absence of written or oral submissions from the Respondent; that the Applicant had proved that the Respondents owes the Applicant the amended sum of £16,800 sought on behalf of the Applicant and made an order for payment by the Respondents to the Applicant for the said 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.**

**S. T**

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**Susanne L. M. Tanner Q.C.  
Legal Member/Chair**

**13 August 2021**