



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)  
Act 2014**

**Chamber Ref: FTS/HPC/CV/19/2822**

**Re: Property at 8 Fraser Avenue, Elgin, Moray, IV30 4EU (“the Property”)**

**Parties:**

**Carmichael Holdings (Scotland) Ltd, c/o CCL Property, 62 High Street, Elgin,  
IV30 1BU (“the Applicant”)**

**Mr Ciprian Purusniuc, 8 Fraser Avenue, Elgin, Moray, IV30 4EU (“the  
Respondent”)**

**Tribunal Members:**

**Helen Forbes (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 be granted against the  
Respondent in the sum of £2706.25**

**Background**

This is an application dated 10<sup>th</sup> September 2019 made under Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”). The Applicant was seeking an order for payment in respect of unpaid rent in the sum of £2531.25. The Applicant included a copy of the tenancy agreement between the parties and a rent statement with the application.

Intimation of a Case Management Discussion (“CMD”) set down for 3<sup>rd</sup> December 2019 was notified to the Respondent by Sheriff Officers on 29<sup>th</sup> October 2019.

By email dated 15<sup>th</sup> November 2019, the Applicant made an application in terms of Rule 14A to increase the sum sought to £2706.25.

By email sent at 11.47am on 3<sup>rd</sup> December 2019, which was the morning of the CMD, the Respondent informed the Tribunal that he was unable to attend the CMD due to work related issues. He stated that he was aware of the rent arrears, had entered into an agreement to make payment by instalment, but was unable to do so as he has now been declared bankrupt. He stated that he had been told he was 'not allowed to pay anyone nothing' because the bankruptcy accountant would deal with all his debts. He provided the name of the bankruptcy accountant and his case reference.

### **The Case Management Discussion**

A CMD took place at Elgin Library, Cooper Park, Elgin at 2pm on 3<sup>rd</sup> December 2019. Neither party was in attendance. The Applicant was represented by Michelle Rourke of CCL Property. The Tribunal was satisfied that the Respondent was aware of the CMD and that it was appropriate to proceed in terms of Rule 29.

Ms Rourke moved the Tribunal to grant the order for payment in the amended sum. She said her firm had checked the bankruptcy register, following receipt of the email from the Respondent that morning, and the Respondent had, indeed, been declared bankrupt. The Applicant accepted that there may be difficulties in enforcing the order, but he wished to seek it nonetheless.

### **Findings in Fact**

1. Parties entered into a tenancy agreement that commenced on 25<sup>th</sup> August 2017, in respect of the Property.
2. The rent for the Property was £675 per month.
3. The Respondent failed to make payment of rent lawfully due in the sum of £2706.25.
4. The Applicant is entitled, in terms of the agreement between the parties, to recover rent lawfully due.

### **Reasons for Decision**

The application to amend the sum sought in terms of Rule 14A was made timeously. Accordingly, the Tribunal allowed the request for amendment of the application and increased the sum sought.

Rent lawfully due in terms of the agreement between the parties is outstanding. The Respondent does not dispute that the rent is outstanding. The Applicant is entitled to an order for payment to recover the rent lawfully due.

### **Decision**

An order for payment is granted against the Respondent in the sum of £2706.25.

## 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.

Helen Forbes

\_\_\_\_\_  
Legal Member/Chair

3rd December 2019  
Date