



**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/19/3437**

**Re: Property at 23 Cherry Lane, Mayfield, Dalkeith, EH22 5LE (“the Property”)**

**Parties:**

**Ms Kristin Latimer, c/o Matrix Management Ltd, 132 St Stephen Street,  
Edinburgh, EH3 5AA (“the Applicant”)**

**Lindsays, Caledonian Exchange, 19A Canning Street, Edinburgh, EH3 8HE  
 (“the Applicant”)**

**Ms Kirsty Webster, 23 Cherry Lane, Dalkeith, EH22 5LE (“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 Four thousand two hundred and twenty one pounds and five pence (£4221.05) together with interest at the rate of four per cent above the Bank of England base rate per annum from the date of the order against the Respondent.**

- 1 By application dated 28 October 2019 the Applicant sought an order for repossession of the property against the Respondent. The Applicant submitted the following documentation in support of the application:-
  - (i) Copy Tenancy Agreement between the Applicant and Respondent dated 14<sup>th</sup> October 2010;
  - (ii) Form AT6 dated 20<sup>th</sup> September 2019 citing grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988 and stating that proceedings

would not be raised before 8<sup>th</sup> October 2019 together with proof of delivery by mail; and

(iii) Rent Statement.

2 By Notice of Acceptance of Application dated 8<sup>th</sup> November 2019 the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 23<sup>rd</sup> December 2019.

3 A copy of the application paperwork together with notification of the Case Management Discussion was served on the Respondent by Sheriff Officers on 21<sup>st</sup> November 2019.

### **The Case Management Discussion**

4 The Case Management Discussion took place on 23<sup>rd</sup> December 2019 at Riverside House, Edinburgh. Mr Adam Gardiner appeared on behalf of the Applicant's Agent. The Legal Member was satisfied that the Respondent had been properly served with the application paperwork and therefore determined to proceed with the Case Management Discussion in her absence.

5 Mr Gardiner explained that the arrears had increased to £4221.05 and the Applicant therefore sought payment of that sum, together with interest at the rate of four per cent above the Bank of England base rate per annum. He produced an updated rent statement confirming the figure due.

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

6 The parties entered into a Short Assured Tenancy Agreement in respect of the property which commenced on 18<sup>th</sup> October 2010.

7 In terms of the said Tenancy Agreement the Respondent is due to pay rent of £650 per month.

8 As at the date of the Case Management Discussion arrears in the sum of £## are outstanding.

9 Despite repeated requests the Respondent has failed or delayed in making payment of rent lawfully due.

### **Reasons for Decision**

10 The Tribunal was satisfied that it was able to continue with the Case Management Discussion in the absence of the Respondent. She had been

served with a copy of the application paperwork as well as notification of the date, time and location of the Case Management Discussion. The Tribunal was therefore satisfied that it was able to make a determination of the application at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties.

- 11 Based on the verbal and written representations from the Applicant's Agent, the Tribunal accepted that the Respondent was due to make payment of rent in the sum of £650 in terms of the Tenancy Agreement entered into between the parties. She had failed to do so. She had not put forward any evidence to counter the Applicant's position in this regard. The Tribunal found the Applicant's evidence to be credible as put forward by his agent and therefore accepted her position.
- 12 The Tribunal therefore accepted that the arrears had increased to £4221.05 and that it would therefore be appropriate having regard to the terms of the application to increase the sum sought to that figure. The Tribunal considered that the Respondent would have had reasonable notice of same by virtue of the Applicant's statement of claim. The Tribunal was further satisfied that interest at the rate of four per cent per annum above the Bank of England base rate would be reasonable in the circumstances.
- 13 The Tribunal therefore determined to make an order for payment against the Respondent in the sum of £4221.05 together with interest at the rate of four per cent above the Bank of England base rate per annum.

### 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

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

23/12/19  
\_\_\_\_\_  
Date