



**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/21/1683**

**Re: Property at 7 Chantinghall Terrace, Hamilton, ML3 8NS (“the Property”)**

**Parties:**

**HMR Legacy LTD, Olivebank Road, Musselburgh, EH21 6RD (“the Applicant”)**

**Mr Peter Murray, 7 Chantinghall Terrace, Hamilton, ML3 8NS (“the Respondent”)**

**Tribunal Member:**

**Shirley Evans (Legal Member)**

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

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of FOUR THOUSAND FOUR HUNDRED AND THIRTY THREE POUNDS AND FIFTY SIX PENCE (£4433.56) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

**Background**

1. This is an application dated 9 July 2021 made by the Applicant for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties and a rent statement showing arrears of £3283.56.

3. On 17 August 2021, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 25 August 2021 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 28 September 2021. The Respondent required to lodge written submissions by 15 September 2021. This paperwork was served on the Respondent by leaving the paperwork with the Respondent’s sister at the Property by Steven Gray, Sheriff Officer, Glasgow on 26 August 2021 and the Execution of Service was received by the Tribunal administration.
5. On 2 September 2021 the Applicant lodged an email with the Tribunal together with a copy rent statement to 1 September 2021 showing arrears had increased to £4433.56. The Tribunal forwarded a copy of this to the Respondent on 3 September 2021.

### **Case Management Discussion**

6. The Tribunal proceeded with the CMD on 28 September 2021 by way of teleconference. The Applicant was represented by Ms Campbell. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
7. The Tribunal had before it the Private Residential Tenancy Agreement dated 16 and 17 October 2019 between the parties which commenced on 17 October 2019 and an up to date rent statement to 1 September 2021 showing arrears of £4433.56
8. Ms Campbell moved the Tribunal to grant an Order for payment for the increased sum of arrears to 1 September 2021 of £4433.56. She explained she had sent a copy of the rent statement to the Respondent on 2 September 2021. She had received no response from him. With reference to the rent statement she confirmed the last payment to account was for £575 made on 22 March 2021. The Tribunal noted in terms of Clause 7 of the Tenancy Agreement the Respondent had agreed to pay monthly rent of £575. The Respondent was a self-employed fitter with Wren Kitchens. Ms Campbell explained that during the first lockdown from March –June 2020 the rent was reduced to £300 per month to help him out. Up until lockdown he had managed the rent although payments were sporadic and she often had to chase and call him to pay. From July 2020 the rent went back to £575 and up until September 2020 he had caught up with payments and was in arrears of £250. At that stage as the Respondent was not getting paid regularly it was agreed he had to make the equivalent of the monthly rental payment of £575 by the 1<sup>st</sup> of each month, Unfortunately arrears had increased. Ms Campbell had attempted to speak to the Respondent on a number of occasions, but he never said much or made any commitment to pay. The Respondent told her that he had moved out and was living with his girlfriend, but needed the

Property for his possessions. Latterly he had stopped taking her calls. She had managed to get another number from his parents and although he first of all took her call on that number, he was again ignoring her calls. She was in contact with the Respondent's sister and had spoken to her last week and on the morning of the CMD. His sister advised she did not know whether the Respondent would appear at the CMD.

### **Findings in Fact**

9. The Respondent agreed by way of Clause 7 of a Private Residential Tenancy Agreement commencing on 17 October 2019 in relation to the Property that he would pay a monthly rent of £575 to the Applicant. By agreement the monthly rent was reduced to £300 from March –June 2020. The rent reverted to £575 in July 2020.
10. Since July 2020 the Respondent had made sporadic payments and as of September 2020 arrears had been reduced to £250. Arrears had increased since then. The last payment to account was of £575 on 22 March 2021. He has made no further payments to rent for the Property since then.
11. The Respondent has fallen into arrears of rent and is accordingly in breach of Clause 7 of the tenancy agreement.
12. The Applicant has attempted to get the Respondent to engage and pay the rent. The Respondent has not engaged with her.
13. The arrears have increased from £3283.56 as at the date of the application to £4433.56 as of 1 September 2021.

### **Reasons for Decision**

14. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by the Applicant. The Tribunal was satisfied that the Applicant had complied with Rule 14A of the Regulations and that the sum sought be increased to £4433.56.
15. Thereafter the Tribunal noted the content of the rent statement lodged which showed the Respondent had last paid rent to his account on 22 March 2021 and had paid nothing since. The Applicant produced evidence of persistent non- payment of rent with reference to the tenancy agreement and the rent statements lodged. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of these documents, together with the Applicant's submissions that the order for payment in favour of the Applicant be granted.

## **Decision**

16. The Tribunal granted an order for payment of £ 4433.56.

## **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.**

Shirley Evans

28 September 2021

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Legal Member

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Date