



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies)(Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/19/1952**

**Re: Property at 9/16 Wardlaw Place, Edinburgh, EH11 1UA (“the Property”)**

**Parties:**

**Ms Caroline Grant, 49 Ramsay Avenue, Laurieston, Falkirk, FK2 9JQ (“the Applicant”)**

**Miss Ewa Maksymowicz, Unknown, Unknown (“the Respondent”)**

**Tribunal Members:**

**Eleanor Mannion (Legal Member)**

**Decision in absence of the Applicant and Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment be made in the sum of £5,082 in respect of outstanding rent.**

1. This was the second Case Management Discussion (“CMD”) in respect of this case number FTS/HPC/CV/19/1952. The first CMD was scheduled to take place on the 19 August 2019 but was adjourned at the request of the Respondent who was in Poland, following the untimely death of her husband..
2. A second CMD was scheduled for 10<sup>th</sup> October 2019. In advance of this, the Tribunal was advised that the Respondent was no longer residing at the Property. As a forwarding address was not available for the Respondent, service of correspondence and Tribunal notices was done by way of advertisement on the Housing and Property Chamber website.
3. The Applicant emailed the Tribunal offices on 27<sup>th</sup> August 2019 indicating that work commitments made it difficult for her to attend Tribunal hearings but asked that in any event an order for outstanding rent arrears be granted. She requested that this order be made in the sum of £5,527.16 rather than £5,082

as set out in the original application. She explained that as the eviction of the Respondent did not take place until 23<sup>rd</sup> July 2019 further rent was due and owing.

4. At this Case Management Discussion, neither the Applicant nor the Respondent was present. Rule 29 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 ("the Rules") permits that in the absence of one or more of the parties, the Tribunal may proceed with an application based on the all material before it.
5. On consideration of the materials before it, the Tribunal decided to make an order in respect of the rent arrears as originally outlined, namely £5,082. The Tribunal was satisfied based on the documentation provided that this amount was due and owing to the Applicant in respect of rent arrears. The Tribunal was not willing to increase this amount to £5,527.16 as per the Applicant's email of the 27<sup>th</sup> August 2019 as it was not satisfied that the Respondent had fair notice of this amendment.

### **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.**

**E Mannion**

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**Legal Member/Chair**

10/10/19

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**Date**