



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

**Chamber Ref: FTS/HPC/CV/19/1506**

**Re: Property at G/L (5A) Viewfield Place, 5 Crieff Road, Perth, PH1 5AG (“the Property”)**

**Parties:**

**Scavach Investments Limited, Balquhandy House, Dunning, PH2 0RB (“the Applicant”)**

**Mr Charles Mackenzie, G/L (5A) Viewfield Place, 5 Crieff Road, Perth, PH1 5AG (“the Respondent”)**

**Tribunal Members:**

**Ewan Miller (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant would be granted a payment order in the sum of TWO THOUSAND SIX HUNDRED AND THIRTEEN POUNDS AND 21p (£2613.21) STERLING against the Respondent.**

**Background**

The Applicant is the owner of the Property. The Applicant alleged that the Property had been let to the Respondent and that the Respondent had failed to make payment of the rent due under the lease timeously and in full. Accordingly the Applicant had applied to the Tribunal seeking a payment order for the rental sums.

The Tribunal had before it the following information:-

- A copy of the Applicant’s application to the Tribunal;
- A copy of the lease between the parties dated 2 November 2018;
- A copy of the Applicant’s Land Certificate evidencing ownership of the Property;

- A rental arrears statement showing a balance outstanding as at August 2019 of £3,033.21;
- Sheriff Officers Certificate of Service dated 16 July 2019.

### **Case Management Discussion (“CMD”)**

The Tribunal held a CMD at Inveralmond Business Centre, Auld Bond Road, Perth on 22 August 2019 at 2pm. The Applicant was not present but was represented by Jennifer Kent of PKC Lets. The Respondent was neither present nor represented. The Respondent had not made any written submissions to the Tribunal either.

The Tribunal noted copies of all the relevant documents had been served upon the Respondent timeously by Sheriff Officers. The accompanying letter from the Tribunal highlighted the requirement for the Respondent to attend and stated that a decision could be made in his absence. The Tribunal saw no reason not to proceed to make a determination at the CMD.

### **Findings in Fact**

The Tribunal found the following facts to be established:-

- The Applicant is the owner of the Property
- The Applicant had entered in to a lease of the Property with the Respondent
- The Respondent had failed to pay any rent at all for the first three months and had paid only sporadically thereafter
- At the date of the hearing there were arrears of £3,033.21 due by the Respondent to the Applicant

### **Reasons for the Decision**

The Tribunal noted the terms of the rent arrears statement. This showed that the Respondent had failed to make payment for the first three months and had been sporadic in payment thereafter. The statement showed arrears due under the lease of £3,033.21. The Tribunal had no reason to doubt the veracity of the rent statement and the evidence given by Ms Kent. The Respondent had not given any explanation or evidence to refute the evidence of the Applicant and his agent. The arrears statement reflected the sums chargeable as rent under the lease. Accordingly the Tribunal was satisfied that it was appropriate to grant a payment order to the Applicant against the Respondent.

The Tribunal noted that the original application had been validly amended previously to seek arrears of £2613.21. Ms Kent had sought, prior to the hearing, to amend the amount to £3,033.2. In terms of the Tribunal's procedural rules, to validly do so prior to a CMD or hearing, the Applicant must give both the Tribunal and the Respondent 14 days notice of the increased amount. Whilst the Tribunal had been notified and given more than 14 days notice, the Respondent had only been given 9 days notice. Accordingly, the Tribunal did not view it as fair to impose the higher amount on the Respondent as fair notice had not been given. The Tribunal was content the payment order should be granted but at the sum of £2613.2

## 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 Miller**

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Legal Member/Chair

22/8/19  
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Date