



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

**Chamber Ref: FTS/HPC/CV/20/0101**

**Property: 56 Manse View, Newarthill ML1 5TB (“the property”)**

**Parties:**

**Mr Jeremy Finn, per his agent Mrs Kirsty Hill, Independent MPS, 23 Stirling Street, Airdrie ML6 0AH (“the applicant”)**

**Mr George Jack, formerly residing at the property and whose whereabouts is currently unknown to the tribunal (“the Respondent”)**

**Tribunal Member:**

**David Preston (Legal Member) (“the tribunal”)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent to the applicant of the sum of Eight hundred and fifty (£850) should be made.**

**Background:**

1. By application dated 10 January 2020 the applicant applied for an order for payment in respect of arrears of rent amounting to £1275.
2. The papers before the tribunal comprised: Tenancy Agreement dated 30 July 2019; rent statement covering the period from 30 July 2019 to 30 December 2019 showing arrears of rent to that date of £1275.
3. By Decision dated 3 February 2020 a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal. A letter of Intimation dated 19 February 2020 with Notice of the Case Management Discussion (“CMD”) to be held on 23 March 2020 was returned by Sheriff Officers who had been unable to serve the Notice on the respondent and who reported that they had been advised by neighbours that the property had lain empty for at least a month. Thereafter Notice of a re-scheduled CMD to be held on 5 August 2020 of was served on the respondent by Advertisement conform to Certificate of Service by Advertisement dated of today’s date.

## **Case Management Discussion**

4. On 5 August 2020 a hearing was convened by telephone in accordance with the provisions for dealing with business during the COVID-19 pandemic. Present by telephone at the CMD was Mrs Kirsty Hill on behalf of the applicant. There was no attendance by or on behalf of the respondent by 1015.
5. Notice of the CMD had been duly served on the respondent by advertisement as detailed above. The tribunal was satisfied that the respondent had elected not to attend and had accordingly waived any right to be present or represented and determined to proceed with the CMD.
6. Mrs Hill advised the tribunal that the applicant had not recovered the keys of the property and sought to increase the arrears sought. The tribunal pointed out that the property had been found to be vacant when the Sheriff Officers had attempted to serve papers in February 2020. It also noted that the deposit was available to set against the arrears.
7. Mrs Hill acknowledged that to increase the sum sought would require further intimation to the respondent and confirmed that she did not insist on increasing the sum sought. She argued that the arrears had continued to accrue and suggested that the deposit could be recovered in addition to the amount of any order but after discussion, she conceded that the deposit was available to be set against the arrears sought.

## **Findings in Fact**

8. The parties entered into a Private Residential Tenancy Agreement dated 30 July 2019 with effect from that date at a rent of £425 per month. The respondent had paid a deposit of £425 which was available to the applicant to be set against arrears of rent.
9. The respondent last paid rent on 30 September 2019, leaving arrears for the period 1 October 2019 to 30 December 2019.
10. The respondent accrued 3 months' rent arrears as at 30 December 2019 amounting to £1275. The applicant was entitled to recover the deposit paid by the respondent from the tenancy deposit scheme with which it had been lodged to be set against

## **Reasons for Decision:**

11. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
12. The tribunal accepted the information in the file and as provided by Mrs Hill and determined to issue the order for payment.

## 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.

**D. P**

5 August 2020

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Legal Member/Chair

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Date