



**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/19/1149**

**Re: Property at 127 St Mungo's Road, Cumbernauld, G67 1GB ("the Property")**

**Parties:**

**Link Housing Association Limited t/a Link2Let, Link House, 2c New Mart Road, Edinburgh, EH14 1RL ("the Applicant")**

**Mr Dean McPhillips, 127 St Mungo's Road, Cumbernauld, G67 1GB ("the Respondent")**

**Tribunal Members:**

**Richard Mill (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent pay to the Applicant the sum of £870.50 (Eight Hundred and Seventy Pounds And Fifty Pence)**

**Background**

There are 2 conjoined cases between the parties. An Eviction application reference FTS/HPC/EV/19/1148 and a Payment application reference FTS/HPC/CV/19/1149.

The parties are the landlord and tenant respectively of the property at 127 St Mungo's Road, Cumbernauld, G67 1GB.

A short assured tenancy was created between the parties which commenced on 8 May 2017. The contracted rent at that time was £418.14.

The applications were accompanied by a copy of the tenancy agreement, copy AT5, Notice to Quit, s33 Notice, and s11 Notice.

At the time of the Notice issued under s19 of the 1988 Act the sum of £870.50 rent arrears were outstanding.

A mandatory ground exists under s33 of the Housing (S) Act 1988 as all relevant statutory notices have been served.

### The Hearing

The Applicant landlord was represented by Miss Kerry Preece of Messrs Harper Macleod LLP solicitors. A representative from Link Housing was also in attendance. The Respondent was personally present.

### Findings and Reasons

On 19 June 2019 an amendment of the sum sought in the payment action was received. This is less than the minimum 14 day period required under Rule 14A.

The sum sought is sought to be increased to ££1,988.96 comprising rent arrears to date of £1,761.24 plus a recoverable repair of £227.72.

The rent statement produced shows that the rent arrears increased from the previously sought £870.50 to the £1,761.24 in the 1 month between April and May 2019. This makes no sense. Weight cannot be attached to the rent statement without further clarification.

No specification or vouching is available in connection with the claimed recoverable repair. It was stated that a £150 charge was levied for access to gas services. The additional charge related to a lock change.

The rent commenced at a rate of £418.14. It appears to have been increased twice, firstly to £425.13 and then latterly to £445.37. There is evidence of the increase to the £445.37 but no evidence regarding the increase from £418.14 to £425.13.

Ultimately the Applicant's agent advised that the additional sums were not to be insisted upon given the failure to intimate the amendment 14 days as required in terms of the Rules. Accordingly the sum sought remained as at the time of the Payment application commencing namely £870.50. This level of arrears was evidenced and not disputed. An Order for Payment was made in this sum.

The Respondent explained that a number of unfortunate events had taken place over the last year. He referred to mental health problems, an appendix operation, losing his job and breaking up with his partner. Despite all of this he is now back in employment. He offered in the hearing to repay the arrears at the rate of around £150 per month. He indicated a wish to retain the tenancy and referred to the fact that he has a young son who visits him at weekends at the property.

The Respondent's explanations appeared to the Tribunal to be reasonable but acknowledging that a mandatory ground for repossession existed the parties were encouraged to discuss matters. An adjournment was allowed so that the Applicant's agent could take instructions. This was not fruitful and the Applicant's agent returned

and insisted upon the Order for recovery which the Applicant is entitled to. An Order for Possession was made.

### 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.

  
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Legal Member/Chair

28 June 2019  
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Date

\*Insert or Delete as required