

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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 (“the Act”) and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/CV/23/0012**

**Re: Property at 1E Richardland Place, Kilmarnock, KA1 3HF (“the Property”)**

**Parties:**

**Concept Live Ltd 2 North Kirklands, Glasgow, G76 0NT (“the Applicant”) per their agents Be-Rented Ltd 2 North Kirklands, Glasgow, G76 0NT (“the Applicant’s Agents”)**

**Mr David Lyons otherwise known as Ms. Diane Hannah Lyons residing at the Property (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismissed the Application without Order.**

1. By application dated 6 January 2023 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for payment of rent arrears arising from a tenancy between the Parties. The Application comprised statements of rent showing a balance of rent amounting to £1,550.00 due and owing by the Respondent to the Applicant from 1 June 2022 to 31 January 2023. The amount of rent due was later amended to £2,025.00 to 28 February 2023. The Application comprised a copy tenancy agreement between the Parties. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 15 May 2023 at 14.00 by telephone conference. The CMD was intimated to the Parties and, in particular, served on the Respondent by Sheriff Officer on 12 April 2023.

**CMD**

2. The CMD took place on 15 May 2023 at 14.00 by telephone conference by telephone. Mr. McEwan and Ms. Herron of the Applicant’s Agents took part on behalf of the Applicants. The Respondent did not take part and was not represented. He did not lodge written representations.

3. Mr. McEwan advised that the Respondent had made payment of the arrears earlier in the day and so there are no sums due at present.
4. Mr. McEwan stressed that as the Respondent is sporadic in making payments and fails to comply with the obligation to pay rent on time, the Applicant has suffered financial prejudice as there is a mortgage on the Property.
5. Whilst the Tribunal cannot make an order, the Tribunal makes it clear to the Respondent that payment of rent on the due date is a core and essential part of the tenancy agreement and that non-compliance and non-payment of rent are grounds for eviction.

#### **Findings in Fact**

6. From the Application and the CMD, the Tribunal made the following findings in fact: -
  - i) There had been a tenancy of the Property between the Parties at a monthly rent of £475.00 and
  - ii) Rent arrears amounting to £2,025.00 had accrued but have now been paid.

#### **Decision**

7. Having made those findings, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussion .....including making a decision” and so proceeded to dismiss the application.

#### **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.**

**Karen Moore**

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**Legal Member/Chair** **15 May 2023**  
**Date**