**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/18/2689**

**Re: Property at 1/6 Loganlea Terrace, Edinburgh, EH7 6NU ("the Property")**

**Parties:**

**Miss Leigh Anderson, 185 Leith Walk, Edinburgh, EH6 8NX ("the Applicant")**

**Miss Gemma McLaughlin, 1/6 Loganlea Terrace, Edinburgh, EH7 6NU ("the Respondent")**

**Tribunal Members:**

**Rory Cowan (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that a Payment Order in the sum of £3,265 should be granted.**

- Background

The Applicant submitted an application dated 9 October 2018 (the Application) to the First-tier Tribunal seeking a Payment Order in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the Regulations) as well as an award of interest at 8 per centum per annum on that sum. The Case Management Discussion took place on 29 November 2018. The Applicant was represented by a Mr Scott Runciman of Gilson Gray LLP. The Respondent was not present and had not lodged any written representations. The Application was intimated on the Respondent and she was advised that she required to be at the Case Management Discussion or be represented and that the tribunal could make any decision at the Case Management Discussion that it could at a full hearing, including granting the Application, as long as the tribunal had sufficient information in front of it and considered the procedure had been fair.

- The Case Management Discussion

The Applicant's representative moved for the Application to be granted. The Applicant's representative also sought interest at the rate of 8 per centum per annum which it was confirmed was in relation to the judicial rate of interest. The Applicant's representative submitted that, as the Sheriff's jurisdiction in relation to matters arising out of assured tenancies had transferred to the tribunal under and in terms of section 16 of the Housing (Scotland) Act 2014, the tribunal had the power to award judicial interest.

- Findings in Fact

1) That the Applicant and Respondent entered into a tenancy agreement dated 26 May 2017.
2) That under the tenancy agreement the Respondent was due to pay to the Applicant monthly rent of £595.
3) That as at 26 October 2018 the Respondent was in rent arrears amounting to £3,265.
4) That the Applicant was not entitled to interest at the rate of 8 per centum per annum on the said sum.

- Reasons for Decision

The tribunal proceeded on the basis of the written documents and the submissions of the Applicant's representative.

There was nothing before the tribunal challenging or disputing the evidence before it.

The tribunal has no power to award judicial interest on a Payment Order it makes. The power to make an award of judicial interest in relation to sheriff court decrees arises from the Administration of Justice (Scotland) Act 1972 (as amended). This power has not (as yet) been transferred to the tribunal. Whilst the tribunal could, in certain circumstances, make an award of contractual interest due under a tenancy agreement, any application would need to be framed in such a way and intimated on the other party. The Applicant's representative declined to amend the Application to include a claim for contractual interest and therefore only sought the Payment Order relative to the rent arrears claimed.

- Decision

To grant a Payment Order in the sum of £3,265 in favour of the Applicant.

**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

# Rory Cowan

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Legal Member/Chair                        Date