

**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 16 of the Housing (Scotland) Act 2014.**

**Chamber Ref: FTS/HPC/CV/19/0923**

**Re: Property at 3/4 Woodcroft Road, Edinburgh, EH10 4FA (“the Property”)**

**Parties:**

**Dublin Street Limited, c/o D J Alexander Lettings Ltd, 1 Wemyss Place, Edinburgh, EH3 6DH (“the Applicant”)**

**Mr Aaron Cummings, 3/4 Woodcroft Road, Edinburgh, EH10 4FA (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the order for payment in the reduced sum of £9,175.00.**

**Background**

The Applicant submitted an application seeking an order for payment in the sum of £5,505. That sum related to rent arrears in respect of the Respondent's occupation of the property at 3/4 Woodcroft Road, Edinburgh. The Tribunal issued a letter to the parties dated 7<sup>th</sup> May 2019 advising them of the date, time and place of today's case management discussion. In that letter, the parties were also told that they required to attend the hearing and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 27<sup>th</sup> May 2019. No written representations were received.

The Tribunal received a telephone call from the Respondent on the morning of 11<sup>th</sup> June 2019, advising that he was unwell and unable to attend the case management

discussion. The Respondent subsequently sent an email to the Tribunal confirming that he was unwell and requesting an adjournment to another day.

### **The Case Management Discussion**

The Applicant was represented by Mr Gibb. The case management discussion proceeded in the absence of the Respondent. This case was heard alongside a related case which proceeds under chamber reference FTS/HPC/EV/19/0647.

Mr Gibb was advised about the contact from the Respondent earlier in the day. The Applicant's position was that the case management discussion should proceed in his absence and that the application to adjourn should be refused.

The Tribunal noted that there were no written representations made by the Respondent and the Tribunal was therefore unaware of the Respondent's position. The Applicant's representative advised that the Respondent has previously made promises to resolve matters but those promises have not been kept. The Tribunal reached the view that, balancing both parties' interests, the case management discussion should proceed.

The Applicant's representative sought an order for payment in the amended sum of £11,010 on the basis that this is the sum of rent arrears due as at today's date. The Tribunal noted that the Applicant intimated an amendment to the application on 16<sup>th</sup> May 2019. Reference is made to the Applicant's email of that date. The email contained an attachment which was an up to date rent statement of even date showing that rent arrears at that point amounted to £9,175. That amendment application had been intimated to the Respondent. The Respondent had not received intimation that the Applicant would seek an order for an increased sum of £11,010. The Applicant's representative advised that the Applicant was prepared at this stage to restrict the claim for payment to £9,175, which is the sum that the Respondent had notice of.

### **Findings in Fact:**

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 28<sup>th</sup> December 2017
2. The rent payable was initially £11,010 per 6 months, payable in advance and from October 2018 was £1,875 per month.
3. No rent has been paid by the Respondent since December 2018.
4. Rent arrears as at 16<sup>th</sup> May 2019 amounted to £9,175.
5. The Applicant is entitled to the Order for payment in the sum of £9,175.

### **Reason for Decision**

The Tribunal proceeded on the basis of the written documents which were before it. The Respondent was given an opportunity to provide written representations to the Tribunal; he failed to do so and he failed to attend the case management discussion. The Applicant invited the Tribunal to make the Order sought. The Tribunal was satisfied on the basis of the documentation produced and the representations made by the Applicant that the Respondent owes rent arrears amounting to £9,175. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

### **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.**

**Ms Nicola Irvine**

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Legal Member/Chair

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11<sup>th</sup> June 2019  
Date