

**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(1) of the Private Housing (Tenancies)(Scotland)Act 2016**

**Chamber Ref: FTS/HPC/CV/19/3553**

**Re: Property at 12A Commercial Road, Strathaven, ML10 6LX (“the Property”)**

**Parties:**

**180 Advisory Solutions Limited, Suite 148, Central Chambers, 11 Bothwell Street, Glasgow, Lanarkshire, G2 6LY (“the Applicant”)**

**Mr James Hunter Ross, 12A Commercial Road, Strathaven, ML10 6LX (“the Respondent”)**

**Tribunal Members:**

**Eleanor Mannion (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for civil proceedings in relation to a private residential tenancy was substantiated and an order in the sum of £2,690 was made**

**Findings of Fact**

1. The Lease was entered into in respect of the Property between the Respondent and the Executor of Mr Robert Laurie on the 18 July 2018.
2. On the 14 June 2019, Sequestration was awarded by the Accountant in Bankruptcy as against the Late Robert Laurie.
3. On the 14 June 2019, Barry John Stewart of the Applicant organisation was appointed as trustee and from that date the property vested in him as the trustee.
4. As trustee, the Applicant has an obligation and duty under bankruptcy law to recover monies owing to the debtor and realise any assets.

5. The monthly rental payment due was £450.
6. The rent was not paid in February, April, June, July, August, and September 2019.
7. A payment of £450 was made on 18 March 2019 and a further payment of £450 was made on 20 May 2019.
8. At the time the Notice to Leave was served on 12 July 2019 the rent was in arrears of £1,340.
9. At the time the application was made to the Tribunal on 1 November 2019, the rent was in arrears of £2,690.

### **Summary of Discussion and Evidence**

10. The application was lodged with a copy of the lease, statement of rent account, and extract from the register of insolvency. The application sought an order in respect of £2,690.
11. Ms Hannah Brown from Addleshaw Goddard LLP addressed the Tribunal on the rent which was claimed as due and owing. She spoke to the rental statement, setting out when the payments were due and unpaid.
12. In respect of the reason behind the arrears, she indicated that there was limited information as to why the Respondent fell into arrears. She submitted that the Applicant sought to engage with the Respondent when he was appointed as trustee to see if a payment plan could be reached. She submitted that there was "radio silence" from the Respondent.
13. She submitted that the Respondent made some payments but the arrears were continuing. These amounts did not appear to correspond with housing benefit payments or universal credit. She submitted that there was no information available to her or the Applicant as to whether the Respondent was in receipt of benefits and whether the rent arrears were due to a delay to those benefits being paid.
14. The Respondent was not present at the Case Management Discussion. Papers from the Tribunal, including the application and all documents referred to herein were served on him by Sheriff Officers on the 31 December 2019. The Respondent did not provide any written representations and did not make contact with the Tribunal offices.

## The Law

### Section 71(1) Private Housing (Tenancies)(Scotland)Act 2016

71 (1)In relation to civil proceedings arising from a private residential tenancy—

(a)the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),

(b)a sheriff does not have competence or jurisdiction.

### Decision and Reasons for Decision

15. Having considered the paperwork lodged and the oral submissions made at the Case Management Discussion on the 29 January 2020, the Tribunal found there was sufficient information before it to make a decision in favour of the Applicant in the sum of £2,690. The rental statement evidenced an ongoing non-payment. Ms Brown submitted that attempts were made to engage with the Respondent but these were unsuccessful. This submission was accepted by the Tribunal. The Respondent did not engage in the process and so the rental amounts due and owing are not disputed.

### 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.

**E Mannion**

Legal Member

29/1/20

Date