



**Decision 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/23/2084**

**Re: Property at Flat 6, 97 Stonelaw Road, Rutherglen, Glasgow, G73 3EE (“the Property”)**

**Parties:**

**Mr Brian McAvoy, 11G Greystone Avenue, Rutherglen, Glasgow, G73 3SN (“the Applicant”)**

**Mr Perrin Smith, Flat 6, 97 Stonelaw Road, Rutherglen, Glasgow, G73 3EE (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- Background

This is an application for an order for payment of rent arrears alleged to be owed by the Respondent in terms of his private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 10am on 28 September 2023, by teleconference. The Applicant was represented by Mrs Elder of Aberdeen Considine & Co., solicitors. The Respondent was on the call in person.

- Findings in Fact

1. The Respondent leases the Property from the Applicants under a private residential tenancy with a start date of 11 July 2022.
2. In terms of the tenancy agreement, rent of £750 is due on the eleventh day of each month.
3. Also in terms of tenancy agreement, interest at rate of 5% over the Royal Bank of Scotland's base rate is chargeable on any overdue sums.
4. As at the date of the CMD, the Respondent was in rent arrears totalling £5,893.13.

- Reasons for Decision

5. The Applicant applied to amend the sum sought to reflect the up-to-date position regarding rent arrears on 31 August 2023.
6. There was not any real dispute between the parties in relation to the principal facts of the case, as set out above. The Respondent did question the manner in which the rent account was set out, which he suggested did not show consistent charges across different entries. He did not himself put forward an alternative account to demonstrate any inaccuracy in the Applicant's account and was not able to answer what he thought the correct figure for any arrears was; although he did accept he was in arrears. The apparent issue was explained by the Applicant's representative as being due to the monthly charge translating to different daily rates, depending on the length of the month in question. The Tribunal was satisfied with this explanation, which was not questioned by the Respondent. It accordingly granted the application to amend to that amount.
7. The Applicant asked any award to include interest at 10% per annum, which the Tribunal was told was approximately 5% above the relevant base rate, as

at that date. There was no information as to the prevailing base rate presented, either with the application, or on the day. The Tribunal in any event considered the rate of 10% to represent a considerably higher return than could realistically be achieved on any investment the Applicant could make, had the money been paid to him on time. It did, however, feel that an award of interest was appropriate, given the tenancy agreement made provision for this. Applying a broad axe approach, the Tribunal considered that a rate of 5% was reasonable to compensate the Applicant for the loss of the use of the funds owed.

- Decision

**Order granted for payment by the Respondent to the Applicant of the sum of FIVE THOUSAND, EIGHT HUNDRED AND NINETY-THREE POUNDS AND THIRTEEN PENCE STERLING (£5,893.13) with interest at the rate of 5% per annum, from the date of the award.**

### **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

**N Young**

18/10/2023

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Legal Member/Chair

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Date