



**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**

**Chamber Ref: FTS/HPC/CV/22/1402**

**Re: Property at 17 Prunier Place, Peterhead, AB42 1PN (“the Property”)**

**Parties:**

**Mrs Marie Kavanagh, 38 Britannia Close, Kent, Sittingbourne, ME10 2JF (“the Applicant”)**

**Miss Alana Natasha Forsythe, 34B Kirk Street, Peterhead, AB42 1RX (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Elizabeth Williams (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Two thousand one hundred and fifty pounds (£2150) Sterling against the Respondent**

**Background**

- 1 By application to the Tribunal, the Applicant sought an order for payment in the sum of £2750 against the Respondent together with interest from the date of decision until payment. In support of the application the Applicant provided:-
  - (i) Private Residential Tenancy Agreement between the parties; and
  - (ii) Rent Statement.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for the

29 August 2022 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

- 3 The Respondent subsequently requested a postponement of the Case Management Discussion, stating that she had been in a road traffic accident and was having to attend hospital on a regular basis as a result. The request was refused by the Tribunal and the Respondent was advised to attend the Case Management Discussion or arrange for representation.

### **Case Management Discussion**

- 4 The Case Management Discussion took place on 29 August 2022. Mrs Laura Wilson from Peterhead Property Letting Agency appeared on behalf of the Applicant. The Respondent was not present. The Tribunal noted she had received proper notification of the application paperwork and determined to proceed in his absence.
- 5 Mrs Wilson explained that the Applicant sought an order for the updated arrears in the sum of £2844.54. The Applicant was also seeking to add on costs in relation to damages which had been identified following the termination of the tenancy on 30 June 2022. The Tribunal noted that no formal request for amendment of the application had been made, and would be required if the Applicant wished to pursue the additional arrears and costs. Mrs Wilson advised that she wished to proceed with the application and would pursue a separate application to the Tribunal for the additional costs. Mrs Wilson advised that the balance stated in the application had in fact reduced following payments made by the Respondent in May and she was therefore seeking an order in the sum of £2150. She confirmed that she had applied for the tenancy deposit of £550 from Safedeposits Scotland and that would be applied to the remaining arrears.
- 6 In response to questions from the Tribunal Mrs Wilson confirmed that the Respondent had split from her partner, who had been a joint tenant, and the arrears had begun to accrue thereafter. The Respondent had asked for a new tenancy agreement. She had been in employment at that time. Mrs Wilson confirmed that the tenancy had terminated and the Respondent had been rehoused in temporary accommodation by the local council. The Respondent had made offers of payment in the past that had not been honoured, for example she advised she would pay £325 in May but had only paid £275.

### **Findings in Fact and Law**

- 7 The parties entered into a Private Residential Tenancy Agreement dated 4 December 2021.

- 8 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £550 per calendar month.
- 9 The Respondent is liable to pay the sum of £2150 to the Applicant in unpaid rent.
- 10 Despite repeated requests the Respondent has refused or delayed to make payment of the sum due.

### **Reasons for Decision**

- 11 The Tribunal was satisfied that it could make a determination of the application at the Case Management Discussion and that to do so would not be detrimental to the parties. The Respondent had received proper notification of the application paperwork and had not taken the opportunity to participate in the proceedings.
- 12 Based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £2150. The Tribunal accepted the evidence of the Applicant that the Respondent had a contractual obligation to make payment of rent at the rate of £550 per month and had failed to obtemper this. There was nothing before the Tribunal to contradict the position put forward by the Applicant.
- 13 The Tribunal therefore made an order for payment against the Respondent in the sum of £2150. The decision of the Tribunal was unanimous.

### **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.**

**29/08/2022**

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**Legal Member/Chair**

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**Date**

