



**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/22/2309**

**Re: Property at 4 Finlay Close, Pitlochry, PH16 5FH (“the Property”)**

**Parties:**

**Mr David Kirton, 4 Finlay Close, Pitlochry, PH16 5FH (“the Applicant”)**

**Mr Richard Fiennes and Mrs Andrea Fiennes, whose present whereabouts are unknown (“the Respondents”)**

**Tribunal Members:**

**George Clark (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondents to the Applicant of the sum of £16,711.23. The Applicant’s request for interest on that sum was refused.**

**Background**

By application, dated 12 July 2022, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £18,456.44.

The application was accompanied by a copy of a Private Rented Tenancy Agreement between the Parties commencing on 27 December 2019 at a monthly rent of £1,300, and a Rent Statement showing arrears calculated to 2 July 2022 of £18,456.44.

On 3 November 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 24 November 2022. The Respondent did not make any written representations to the Tribunal. Service on the Respondents was by means of advertisement on the Tribunal’s website from 3 November 2022 until 8 December 2022, as their present whereabouts are unknown.

On 24 November 2022, the Applicant's agents provided the Tribunal with a final Rent Statement showing arrears of £16,711.23, following the addition of rent due from 3 July to 22 July 2022 (£854.79) and deduction of the deposit of £2,600 which had been paid by Safe Deposits Scotland to the Applicant.

### **Case Management Discussion**

A Case Management Discussion was held by means of a telephone conference call on the afternoon of 8 December 2022. The Respondent was represented by Miss Alexandra Wooley of Bannatyne Kirkwood, France and Co, solicitors, Glasgow. The Respondent was not present or represented.

Miss Wooley told the Tribunal that the arrears remain at £16,711.23. The Respondents had vacated the Property on 22 July 2022 and their present whereabouts are unknown. She requested interest on the principal sum and pointed out that the Tenancy Agreement entitled the Applicant to charge interest on unpaid sums that had become due by the Respondent.

### **Reasons for Decision**

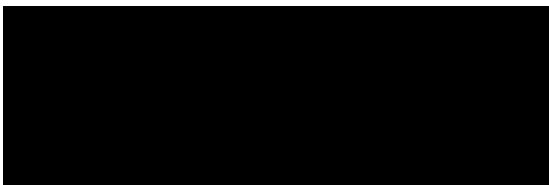
Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

The Tribunal was satisfied that the sum sought, as amended to £16,711.23, has become lawfully due by the Respondent to the Applicant.

The Tribunal refused the Applicant's request for interest from the date of its Decision on the principal sum due. The Tribunal noted that the Tenancy Agreement permitted the Applicant to charge interest at 5% over the Royal Bank of Scotland base rate on sums due by the Respondent and unpaid, but that the Applicant had not at any time applied interest as the arrears increased, so the Tribunal was not prepared to accept a request for interest from the date of its Decision.

### **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.**



**Legal Member/Chair**

**8 December 2022**  
**Date**

