



**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/22/2657**

**Re: Property at 11 Dalmeny Road, Hamilton, South Lanarkshire, ML3 6PP (“the Property”)**

**Parties:**

**Ms Elizabeth Lockhart, 22 Downsview Drive, Barrie, Canada (“the Applicant”)**

**Mr Paul McDonald, 11 Dalmeny Road, Hamilton, South Lanarkshire, ML3 6PP (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (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”) granted a Payment Order against the Respondent for the sum of £6345 with interest at 8 percent per annum from the date of the Hearing.**

**Introduction.**

This Hearing concerned an Application under application for civil proceedings under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to Private Residential Tenancy. The hearing took place by teleconference.

**1. Attendance and Representation.**

The Applicant was represented by Alexandra Wooley, Bannatyne, Kirkwood, France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG.

The Respondent was not present. He was served personally by Sheriff Officer 13<sup>th</sup> October 2022. No written representations had been received.

## **2. Preliminary Matters.**

The Applicant's representative said that the Applicant's last contact with the Respondent was in June 2022 when a counsellor for the Respondent called to ask about details of the tenancy. They were given but nothing further was heard by them.

The Applicant's representative referred to an application to amend in terms of Rule 14A of the procedure rules which she had lodged on 7<sup>th</sup> Nov 2022 seeking to amend the sum sought to £6345 as at the rent statement lodged dated 7<sup>th</sup> November 2022. The Tribunal allowed the amendment

## **3. Case Management Discussion.**

A payment order in the amended sum of £6345 was sought together with interest from the date of decision at the rate of 8 percent per annum as detailed in clause 8 of the tenancy agreement. The Application sought interest in terms of box 5(c).

The Tribunal was told the Respondent was in employment and that no one else resided in the property. The Applicant had sent several emails since June 2022 to contact the Respondent and advise him of the proceedings.

## **4. Findings in Fact**

1. This Application is brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicant is the heritable proprietor of the property.
3. The Applicant and the Respondent entered into an assured tenancy under the Housing (Scotland) Act 1988 for the property on 3<sup>rd</sup> April 2021.
4. Rent payable under this tenancy was £425 per month.
5. As at the date of the Hearing rent due by the Respondent to the Applicant was £6345.

## **5. Reasons for Decision**

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Tenancy between parties and that on the evidence provided it was appropriate having regard to the evidence before it and the overriding objective of the Tribunal to make a payment order for the sum sought. The Respondent had been served and provided an opportunity to make representations. The Tribunal had sufficient information before it to make a decision at the CMD.

## 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.



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Legal Member/Chair

21st November 2022

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Date