



**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/20/1327

**Re: Property at 23 Ardmaleish Crescent, Flat 1/2, Castlemilk, Glasgow, G45
9JW (“the Property”)**

Parties:

**Dalcamond Property Ltd, The Barn, West Millrig, Wiston, Biggar, ML12 6HU
 (“the Applicant”)**

**Mr Michael Fitzpatrick, 23 Ardmaleish Crescent, Flat 1/2, Castlemilk, Glasgow,
G45 9JW (“the Respondent”)**

Tribunal Members:

Valerie Bremner (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that a payment order in the sum of ONE THOUSAND
AND TEN POUNDS ONLY (£1010) be made in favour of the Applicant and
against the Respondent.**

This is an application for a payment order in respect of rent arrears said to be due at
the property in respect of a tenancy agreement between the parties.

The Application had first called for a case management discussion on 18 August
2020. On that date the Applicant was represented by Mrs McKnight and there was
no appearance by the Respondent or on his behalf. The case management
discussion had been continued for clarification of an issue in relation to the name of
the landlord in the tenancy agreement which appeared to be different from the name
given on the Tribunal application.

At the continued case management discussion on 16 October 2020 the Applicant
was again represented by Mrs McKnight who was supported by Miss Lesley

Morrison. On this occasion the Respondent was represented by Mr Angus McIntosh solicitor. The Tribunal had sight of the application, the tenancy agreement, an execution of service of the papers by Sheriff Officer, a schedule of rent arrears and the response from the Applicant's representative in relation to a Direction issued by the Tribunal.

The Applicant's representative Mrs McKnight renewed her motion for a payment order in the sum of £1010. The Tribunal had been advised at the previous case management discussion that rent arrears for the property had built up between 2019 and February 2020 and the amount outstanding after a previous payment order was granted was now £1010. Housing benefit was now being received directly in respect of the rent so the arrears were not continuing to increase.

The Tribunal had also been advised at the previous case management discussion that the tenancy agreement commenced on 21st August 2018 and the monthly rent is £525 per month. Rent arrears had not accrued due to any failure or delay in payment of benefit but rather the Tribunal was advised that the Respondent had been "in and out" of work.

Mrs McKnight's position in relation to the apparent difference between the name of the landlord in the tenancy agreement and the Applicant as named in the application was that there was no prejudice to the Respondent here, as he had continued to pay rent in reliance on the terms of the tenancy agreement. She also pointed in her written representations to the fact that in terms of the Private Housing (Tenancies) (Scotland) Act 2016, a tenancy agreement need not be in writing.

Mr McIntosh for the Respondent took no issue with the representations in respect of the difference in name between the landlord in the tenancy agreement and the Tribunal application. He indicated that he had not been aware of the application prior to 15 October 2020 and his client had been of the view that he had not received papers from the Tribunal regarding this matter. The Tribunal explained that it was in possession of an execution of service of the papers by Sheriff Officer, dated 23 July 2020 which had been deposited through the letterbox at the property. Mr McIntosh indicated that he did not wish to make further representations on the question of service and was of the view that his appearance at the Tribunal cured any defect in service which might exist.

Mr McIntosh did not oppose the motion for a payment order in the sum set out by the Applicant's representative. He sought to make instalment payments at the rate of £20 per week.

A Time to Pay Direction application had not been lodged and the Tribunal adjourned in order that this could be done. An application setting out the Respondent's financial circumstances was lodged in the form of a Time to Pay Order application. Mr McIntosh subsequently lodged the Respondent's financial information in the correct form and the Tribunal was satisfied that the financial information before it was sufficient to allow it to consider the Time to Pay Direction application although the information was completed in an incorrect form.

Mrs McKnight for the Applicant was content to accept the offer of instalment payments of £20 per week as set out in the Time to Pay Application and this

appeared to reflect the terms of an agreement that had been separately made between parties in respect of the rent arrears. The Tribunal considered all of the financial information and felt that it was reasonable in all of the circumstances to make a Time to Pay Direction in relation to the payment order.

The Tribunal made a payment order in the sum of £1010 and made a Time to Pay Direction to the effect that the Respondent was required to pay £20 per week until the full amount of the rent arrears had been paid.

Findings in Fact

1. The Applicant and Respondent entered into a tenancy agreement at the property with effect from 21 August 2018.
2. The monthly rent in respect of the tenancy agreement is £525 per month.
3. Rent arrears at the property started to accrue in 2019.
4. The rent arrears were not due to any failure or delay in payment of housing or other benefit.
5. Rent arrears after deduction sums due under a previous payment order granted amount to £ 1010,
6. The sum of £1010 is lawfully due by the Respondent to the Applicant.

Reasons for Decision

The Tribunal was satisfied that the sum of £1010 was lawfully due by the Respondent to the Applicant in relation to rent arrears which had accrued at the property. The Respondent's solicitor did not oppose the application for a payment order in this sum.

Decision

The Tribunal made a payment order in the sum of £1010 against the Respondent and in favour of the Applicant and made a Time to Pay Direction requiring the Respondent to make payments of £20 per week until the full sum is paid.

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.

V. Bremner
Legal Member/Chair

_____ 16.10.20 _____
Date