

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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/20/2526**

**Re: Property at Flat 1, 7 Park Circus, Glasgow, G3 6AX (“the Property”)**

**Parties:**

**Mr Christopher Paul Leonard-Morgan, C/O Tay Letting LTD, 8 Eagle Street, Glasgow, G4 9XA (“the Applicant”)**

**Mr Bryan Timmons, Flat 1, 7 Park Circus, Glasgow, G3 6AX (“the Respondent”)**

**Tribunal Member: Lesley-Ann Mulholland (Legal Member)**

**For the Applicant Lorna Taylor and David Gibb, Tay Letting LTD**

**For the Respondent Douglas Kilpatrick, Solicitor**

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant a payment order in the sum of £18,280.

**Background**

1. On 3 December 2020 an application was made for a payment order in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Application for civil proceedings in relation to a Private Residential Tenancy). I am satisfied that Section 71 of the Private Housing Tenancies Scotland Act 2016 provides jurisdiction to me to deal with this matter.
2. The application for a payment order represented rent arrears in the sum of £11,290. On 11 January 2021 an application was made to amend the sum to £18,280 representing arrears of rent as at 1<sup>st</sup> February 2021.

**Findings in Fact**

1. The Applicant Mr Christopher Paul Leonard-Morgan is the rightful owner of the property at Flat 1, 7 Park Circus, Glasgow G3 6AX.

2. On 3 June 2020 The Tenant, Mr Bryan Timmons entered into a Private Residential Agreement with the owner Mr Christopher Paul Leonard-Morgan (The Respondent ) to rent the property at Flat 1, 7 Park Circus Glasgow G3 6AX.
3. The sum due in rent is £3,495 per calendar month.
4. Rent arrears have accrued in the sum of £18, 280 as per schedule attached to the application as at 1 February 2021.
5. The Tenant is in breach of the terms of the agreement by failing to pay his rent when due. He last paid rent on the 12th of August 2020 representing the period from 1st of August 2020 to the 31st of August 2020 in a sum of £3495. Since then, rent arrears have accrued in the sum of £18,280 to 1<sup>st</sup> February 2021. The Respondent has not made any attempt to make payment of the rent arrears or any sum towards the ongoing rent liability since 12 August 2020.

### **Reasons**

1. On 3 December 2020 an application was made for a payment order in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Application for civil proceedings in relation to a private residential tenancy). I am satisfied that I have jurisdiction to deal with this matter under Section 71 of the Private Housing Tenancies Scotland Act 2016.
2. I have considered the application dated 3 December 2020, alongwith all accompanying papers, including the tenancy agreement and schedule of rent payments and arrears. I have also considered the Certificate of Service and enclosures served by Sheriff Officers on 5 January 2021. I am satisfied that The Respondent has been properly notified of the application.
3. The Applicant made an application for a payment order representing rent arrears in the sum of £11,290. On 11 January 2021 an application was made to amend the sum to £18,280 representing the arrears as at 1<sup>st</sup> February 2021. Notification of the amendment was sent to the Respondent by ordinary post on 12 January 2021. I am satisfied that The Respondent has been provided with all relevant documents, including the rent arrears schedule, a copy of the application, tenancy agreement and been properly notified of the application and of today's Case Management Discussion.
4. A Case Management Discussion (CMD) took place remotely by teleconference on 8 February 2021. There were no apparent difficulties with sound or connectivity issues. I am grateful for the patience and understanding shown by those present which allowed the Case Management Discussion to proceed remotely during the current pandemic. I am satisfied those taking part in the discussion had a reasonable opportunity to put their points across and that the Case Management Discussion was fair. No complaint about the lack of effective participation caused by the remote hearing was brought to my attention.

5. At the CMD Mr Kilpatrick accepted that the sum of £18,280 was due and represented arrears of rent for the period 1<sup>st</sup> September 2020 to 1<sup>st</sup> February 2021. Mr Kilpatrick informed me that he had spoken to Mr Timmons mid-January 2021. At that time he indicated that he intended to speak to his family to see whether they would be in a position to meet the arrears of rent and assist him with ongoing rent payments. Mr Kilpatrick had discussions with Mr Gibb on Friday the 5th of February 2021. Despite Mr Timmons indicating to Mr Kilpatrick that he would speak to his family mid-January 2021, he has not made any progress in putting forward a reasonable proposal to meet the outstanding liabilities.
6. Mr Kilpatrick made an application for an adjournment on the 5th of February 2021 asking for more time however this was refused because Mr Timmons was notified of the application on the 5th of January 2021 and had an opportunity to respond within 21 days of receipt of the application. The application for adjournment arrived very late in the day on the Friday before the Monday hearing, and the rent arrears are substantial. Accordingly the Case Management Discussion went ahead on the 8th of February 2021.
7. During the CMD Mr Gibb confirmed that he had spoken to Mr Kilpatrick on Friday. He then approached the owner of the property who has refused to enter into any agreement with Mr Timmons. It is his position that he seeks the order for full payment in the sum of £18,280 at 1st of February 2021.
8. It is clear that Mr Timmons has made no attempt to meet his rent liability from the 1st of September 2020 and has delayed excessively in trying to resolve this matter in any satisfactory way. As at the date of the CMD, Mr Timmons had still not put forward any proposal to meet the sums due.
9. Having Considered all the papers before me, along with the submissions by the Applicant and Respondent, I decided that it was reasonable to grant the payment order in the sum of £18,280, representing rent arrears for the period from 1st of September 2020 until 1st of February 2021.
10. I was satisfied that I could decide the application at the Case Management Discussion as Rule 17(4) permits. It is not necessary for me to fix a hearing as the parties agree the sum is due and the Respondent is simply seeking more time.

### **Decision**

The Respondent has to pay The Applicant the sum of £18,280.

**Lesley-Ann Mulholland**

8 February 2021

---

**Legal Member**

**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**