



**Notes on a Case Management Discussion 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/EV/21/0668**

**Re: Property at 20/1 Gladstone Street, Hawick, Roxburghshire, TD9 0HX (“the  
Property”)**

**Parties:**

**Tyne & Tweed Estates Ltd, 46 Grosvenor Drive, Whitley Bay, NE26 2JS (“the  
Applicant”)**

**Mr Graeme Cook, 20/1 Gladstone Street, Hawick, Roxburghshire, TD9 0HX  
 (“the Respondent”)**

**Tribunal Member:**

**Karen Kirk (Legal Member) and Eileen Shand (Ordinary Member)**

This Case Management Discussion was fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Rule 111 for Civil Proceedings in relation to a Private Residential Tenancy in terms of Section 71 of the Housing (Scotland) Act 2016. The CMD took place by teleconference due to the covid-19 pandemic.

**Attendance and Representation**

David Paul McDermott attended for the Applicants.

The Respondent was not present. The Tribunal did not commence until 10.10am to try to allow the Respondent to attend.

**Background**

This case had previously called before the Tribunal as a Case Management Discussion. The Legal Member had issued a Direction to the Applicant to provide further an up to date rent statement. In compliance with the direction an up to date rent statement had been lodged.

## **The Hearing**

The Applicant set out that the rent arrears for the property in terms of his rent statement lodged following the last CMD was £3193.46. The Applicant sought a payment order for the arrears. He confirmed he was still in receipt of housing benefit for ongoing rent and that he received this directly.

The Applicant said that the Respondent had not been able to adhere to a previous arrangement to pay towards the arrears and the last payment to the rent account other than housing benefit payments was a payment of £100 by bank transfer in September 2020.

The Applicant said he has been unable to contact the Respondent. He told the Tribunal further that on the 7<sup>th</sup> July 2020 his son received a text message from Borders police as they were seeking to find the Respondent on another matter but could not find him. The Applicant said that on the 2<sup>nd</sup> August 2021 a resident upstairs messaged him to say that he hadn't seen the Respondent for months but that he had returned to the property on that date and had been seen letting friends in. There had been no contact with the Respondent for a considerable period of time.

## **Findings in Fact**

1. The Applicant sought a Payment Order for £3193.46.
2. A rent statement for the property in spreadsheet form detailed the arrears due by the Respondent for property as at on 23<sup>rd</sup> July 2021 £3193.46.
3. The Respondent entered into a Private Residential Tenancy for the property on 21<sup>st</sup> August 2019.
4. The monthly rent due in terms of the said Tenancy is £350.

## **Reasons for the Decision**

The Tribunal heard evidence from the Applicant and considered that it was reasonable and appropriate to grant a Payment Order for £3193.46. Whilst the Applicant did not seek it at the CMD he had referred in his correspondence to the Tribunal to seeking interest on the sum due and a fee for a Notice to Leave from the Respondent. Neither claim had any contractual basis either in the tenancy agreement or in any separate contract between the parties so the Tribunal determined it was not appropriate to grant either. The Respondent had had two opportunities to appear and make representations given the Tribunal had earlier continued a previous CMD. On the basis of the up to date rent statement, the evidence heard and the evidence in the Application the Tribunal determined it was appropriate to make a final decision at the Continued Case Management Discussion having regard to the overriding objective of the Tribunal.

## **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.**

**Karen Kirk**  
**Legal Member/Chair**

**13<sup>th</sup> August 2021**  
**Date**