



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 71 private Housing  
(Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/21/0809**

**Re: Property at 59 Kier Hardy Hill, Cumnock, KA18 1PP (“the Property”)**

**Parties:**

**Mr David Litman, 20 Craigens Road, Cumnock, KA18 3AS (“the Applicant”)**

**Mr Craig McGuire, 59 Keir Hardy Hill, Cumnock, KA18 1PP (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the sum of £2250.00 should be granted against the Respondent in favour of the Applicant.**

**Background**

1. By application received on 31 March 2021, the Applicant seeks a payment order in relation to arrears of rent. Documents lodged in support of the application include a copy tenancy agreement and rent statement.
2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer on 26 April 2021. Both parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 26 May 2021 at 2pm and that they were required to participate. On 25 May 2021, the Applicant lodged an updated rent statement showing a balance due of £2375.
3. The CMD took place by telephone conference call on 26 May 2021 at 2pm. The Applicant participated. The Respondent did not participate and was not represented. He did not contact the Tribunal or lodge written representations in advance of the CMD.

## **Case Management Discussion**

4. Mr Litman advised the Legal Member that the Respondent is still in occupation of the property, although he has been served with a Notice to Leave. He recently contacted Mr Litman and said that he would make weekly payments to his rent account of £150. This is to cover his ongoing rent charge and contribute to the arrears. Mr Litman advised the Legal Member that two payments of £150 have been received but that he still seeks a payment order in case the payments are not maintained. Furthermore, this arrangement will take two years to clear the current arrears.
5. The Legal Member noted that the monthly rent in terms of the tenancy agreement is £495 per month. However, the rent statement shows a rent charge of £425 per month. Mr Litman advised that he had reduced the rent (on a temporary basis) after the start of the first lockdown. He has notified the Respondent that it will increase again in June 2021, to the contractual rate. He confirmed that the payment order sought relates to the reduced rent charge since this is what he agreed to accept for the relevant period.
6. The Legal Member noted that an updated rent statement had been lodged on 25 May 2021. This shows a current sum due of £2375. The statement is not accompanied by a written request to increase the sum claimed. Furthermore, it was received too late to ensure a copy of it would be received by the Respondent in advance of the CMD. Mr Litman confirmed that the payment order could be restricted to the sum specified in the application, £2250. He confirmed that this sum is still outstanding. The Legal Member noted that the application also asks for court costs and Sheriff Officer fees. Mr Litman said that he had forgotten that the Tribunal process was free and therefore accepted that no "court costs" were due. He advised that the reference to Sheriff officers fees related to the costs he would incur in enforcing the payment order.

## **Findings in Fact**

7. The Applicant is the owner and landlord of the property.
8. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
9. In terms of the tenancy agreement, the Respondent is due to pay rent at the rate of £495 per month.
10. The Applicant agreed to accept the reduced rate of £425 per month between 28 April 2020 and the date of the CMD.

11. The Respondent owes the sum of £2250 in unpaid rent to the Applicant.

### **Reasons for Decision**

12. The Legal Member considered the application and the information provided by the Applicant at the CMD. The Legal Member is satisfied that the Respondent has incurred arrears of rent of £2250 and that the Applicant is entitled to an order for payment for this sum.

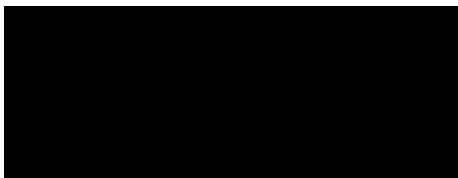
13. In the application, the Applicant seeks an order for an unspecified sum in relation to Sheriff officer fees he may incur when enforcing the payment order. As there is no legal basis for a payment order in relation to diligence which has not yet been carried out, and as the costs of this are currently unknown, the Legal Member determined that this part of the application should be refused.

### **Decision**

14. The Legal Member determines that a payment order should be granted against the Respondent for the sum of £2250.

### **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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**Josephine Bonnar, Legal Member**

**26 May 2021**