



**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/21/1298

**Re: Property at 22 Eildon View, Melrose, Scottish Borders, TD6 9RH (“the
Property”)**

Parties:

**Mr David Graham, Kalinsley, Abbotsview Drive, Galashiels, TD1 3SL (“the
Applicant”)**

**Mr David Burnett, 22 Eildon View, Melrose, Scottish Borders, TD6 9RH (“the
Respondent”)**

Tribunal Members:

Graham Harding (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”) determined that the Applicant was entitled to an order for payment by
the Respondent in the sum of £5050.00.**

Background

1. By application dated 25 May 2021 the Applicant applied to the Tribunal for an order for payment by the Respondent in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant submitted a copy of the tenancy agreement, bank statements and email correspondence in support of the application. Following correspondence with the Tribunal administration the Applicant submitted a rent statement showing the rent said to be due as at June 2021.
2. By Notice of Acceptance dated 8 July 2021 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was sent to the Applicant by post and was served on the Respondent by Sheriff Officers on 16 July 2021.

The Case Management Discussion

4. A CMD was held by teleconference on 18 August 2021. The Applicant attended in person. The Respondent did not attend nor was he represented. The Tribunal being satisfied that the Respondent had been given proper intimation of the CMD determined to proceed in his absence.
5. The Applicant advised the Tribunal that the amount of rent currently due by the Respondent had risen to £7125.00 and indicated it would continue to rise until the Respondent vacated the property. The Tribunal explained to the Applicant that as he had not sought to amend the sum claimed in accordance with the Tribunal's rules of procedure it could only grant an order for at most the sum claimed in the application.
6. The Tribunal noted that although the rent statement provided by the Applicant showed that the amount due by the Respondent as at May 2021 was £5550.00 the Applicant had only claimed £5050.00. The Applicant acknowledged that in the circumstances the Tribunal could only award a maximum of £5050.00.
7. The Applicant asked the Tribunal to grant an order for payment in the sum of £5050.00.

Findings in Fact

8. The parties entered into a Private Residential Tenancy Agreement in respect of the property that commenced on 13 July 2019 at a rent of £525.00 per calendar month.
9. As at 25 May 2021 the Respondent was due the Applicant rent amounting to £5550.
10. The Applicant has claimed £5050.00 in his application dated 25 May 2021.

Reasons for Decision

11. The Tribunal noted that the Respondent had not made any written representations to the Tribunal nor had he offered any explanation for his non-attendance at the CMD.
12. The Tribunal was satisfied from the documents submitted by the Applicant and from his oral submissions that the Respondent had entered into a Private Residential tenancy Agreement that commenced on 13 July 2019 at a rent of £525.00 per calendar month. The Tribunal was also satisfied that as at 25 May 2021 the Respondent had accrued rent due to the Applicant in the sum of £5550.00 and that as at the date of the CMD the amount owed by the Respondent had increased to £7125.00. However, as the Applicant had not

sought to amend the sum claimed in accordance with the Tribunal's rules of procedure it could not make an order for any amount in excess of the sum claimed in the application as the Respondent would not have had fair notice of any such increased amount. The Tribunal was therefore only prepared to grant an order for payment in the sum of £5050.00.

Decision

13. The Tribunal, being satisfied that it had sufficient information before it to make a decision and having carefully considered the written and oral submissions of the Applicant determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £5050.00.

14. The decision of the Tribunal was unanimous.

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.

**Graham Harding
Legal Member/Chair**

**18 August 2021
Date**

