



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017**

**Chamber Ref: FTS/HPC/CV/21/1606**

**Re: Property at 22 Wick Avenue, Airdrie, North Lanarkshire, ML6 9TY (“the Property”)**

**Parties:**

**Mr Lendrick Gillies, c/o Gilson Gray Property Service, 29 Rutland Square, Edinburgh, EH1 2BW (“the Applicant”)**

**Miss Kate Hirnle, 22 Wick Avenue, Airdrie, North Lanarkshire, ML6 9TY (“the Respondent”)**

**Tribunal Members:**

**Fiona Watson (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant(s):**

**Sum of SEVEN THOUSAND AND SIXTY-EIGHT POUNDS (£7,068) STERLING**

- Background
- 1. An application dated 6 July 2021 was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a private residential tenancy agreement.
- 2. A Case Management Discussion (“CMD”) took place on 2 September 2021 by tele-conference. The Applicant was represented by Mr Runciman of Gilson

Gray, solicitors. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 30 July 2021. The Tribunal was accordingly satisfied that the Respondent had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondent's absence.

3. The Applicant's representative moved for the order for payment to be granted in the sum of £4,634. The parties had entered into a Private Residential Tenancy Agreement. The monthly rent was £550. The Respondent had failed to make payment of rent and at the time of submitting the application had fallen into arrears amounting to £4,400. The sought in the application was £3,850. An application under Rule 14A of the Rules was submitted on 6 August 2021 seeking to increase the sum sought to £4,634. Said increased sum included £234 being sought for the landlord's reasonable legal cost, for which the Respondent was liable to pay in terms of Clause 8 of the Agreement. The Respondent remained resident in the Property. The Respondent had not replied to any correspondence from the Applicant. The Applicant also sought interest at the rate of 8% per cent per annum, in terms of Clause 8 of the Agreement. The Tribunal granted the order as sought.
4. On 20 September 2021 the Respondent emailed the Tribunal administration advising that they had not attended the CMD as they did not realise they had to call in themselves and they thought the Tribunal would call them. She had instructed a solicitor. English was not her first language. Said email stated *"I'd like to talk through again with you to sort things out. I'm getting through though times in life since my ex partner left us completely alone in this house. I didn't work long time and it was lockdown as well so it was hard to survive for me and my daughter"*
5. The Tribunal determined that it was in the interests of justice to grant the application for recall of the Decision of the Tribunal dated 2 September 2021. The Order was recalled and the application was remitted back to a further CMD.
6. A further CMD took place on 20 December 2021 by tele-conference. The Applicant was represented by Ms Royale of Gilson Gray, solicitors. The Respondent appeared personally and represented herself.
7. The Applicant's representative moved for the order for payment to be granted in the increased sum of £7,068 together with interest at the rate of 8% per cent per annum, in terms of Clause 8 of the Agreement. An application to amend the sum sought under Rule 14A had been lodged by way of email dated 30 November 2021. It was again submitted that the parties had entered into a Private Residential Tenancy Agreement. The monthly rent was £550. The Respondent had failed to make payment of any rent. The arrears now stood at £6,600. Said increased sum included a further £234 being sought for the landlord's reasonable legal costs, in addition to the £234 sought under the prior Rule 14A application moved at the previous CMD, for which the Respondent was liable to pay in terms of Clause 8 of the Agreement. The Respondent remained resident in the Property. The Respondent had not replied to any

correspondence from the Applicant. The Applicant also sought interest at the rate of 8% per cent per annum, in terms of Clause 8 of the Agreement.

8. The Respondent submitted that she had lived on her own in the property with her daughter, following her ex-partner leaving. She had struggle to find a job during lockdown and had been unemployed until October 2021. She only started receiving payment of benefits in September 2021, which had taken longer due to her not having had settled status in the UK. Until then she had no income and couldn't afford to pay the rent. The Respondent admitted that the arrears stood at £6,600. She accepted that she had signed a tenancy agreement for the property as a sole tenant following her ex-partner's departure. She admitted that nothing had been paid to the rent but submitted that she simply couldn't afford to. The Respondent stated that she intended to make a payment in December but did not specify the sum that she intended to pay, when it would be paid, or why nothing had been paid since she started receiving payment of benefits in September or since she started working in October. She submitted that she had requested that the landlord reduce the rent and that this had been refused .

- Findings in Fact

9. The Tribunal made the following findings in fact:

- (i) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced 27 December 2020;
- (ii) In terms of Clause 8 of the Agreement, the Respondent was obliged to pay a monthly rent of £550 to the Applicant;
- (iii) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £6,600;
- (iv) In terms of Clause 8 of the Agreement, the Respondent was liable for reasonable costs incurred by the Landlord through the Tenant's failure to pay rent on time including legal expenses.
- (v) The Landlord had incurred legal fees of £468 in pursuing the rent arrears;
- (vi) In terms of Clause 8 of the Agreement, interest on late payment of rent may be charged by the landlord at eight per cent per year.

- Reasons for Decision

10. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondent was obliged to make payment of rent in the sum of £550 per month under Clause 8 of the Agreement and had failed to do so. She had accrued arrears amounting to £6,600 and which fell lawfully due to be repaid to the Applicant. No explanation was offered as to why nothing had been paid since her benefits had commenced in September or since she started working in October. No specific repayment proposals were put forward. In terms of Clause 8 of the Agreement, the Respondent was liable for reasonable costs incurred by the Landlord through the Tenant's failure to pay rent on time including legal expenses, and therefore was liable to pay the sum of £468 incurred by the Landlord in legal fees. In terms of Clause 8 of the Agreement,

interest on late payment of rent may be charged by the landlord at eight per cent per year.

- Decision

11. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment of the sum of SEVEN THOUSAND AND SIXTY-EIGHT POUNDS (£7,068) STERLING to the Applicant with Interest thereon at the rate of eight per cent per annum running from the date of the decision of the First-tier Tribunal to grant the order, being 20 December 2021, until payment.

### **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.**

Fiona Watson

Legal Member/Chair

Date: 20 December 2021