

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

**Chamber Ref: FTS/HPC/CV/21/2216**

**Re: Property at Flat 16, Thomson Court, 58 Grassmarket, Edinburgh, EH1 2LJ  
("the Property")**

**Parties:**

**Dr Boris Liedtke, 16 Rue D' Amsterdam, Luxembourg, L-1126, Luxembourg ("the  
Applicant")**

**Mr Yasin Ozkan, Westbow Ltd, 116 Westbow, Edinburgh, EH1 2HH ("the  
Respondent")**

**Tribunal Members:**

**Richard Mill (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 be made against the Respondent in  
the sum of Three Thousand Five Hundred and Sixty Pounds (£3,560) together  
with interest at the rate of 3% from the date of decision, being 25 January 2022,  
until payment**

**Introduction**

This is an application under Rule 111 and Section 71 of the Private Housing  
(Tenancies) (Scotland) Act 2016.

The applicant seeks a Payment Order in respect of rent arrears and other charges  
arising under the terms of the lease between the parties.

Service of the proceedings and intimation of the Case Management Discussion (CMD)  
was effected upon the respondent by Sheriff Officer delivery on 21 December 2021.  
A relevant Execution of Service has been lodged with the Tribunal.

The CMD took place by teleconference on 25 January 2022 at 2.00 pm. The applicant represented his own interests. The respondent failed to participate in the hearing. There was no known barrier to him doing so.

### Findings and reasons

The property is Flat 16 Thomson Curt, 58 Grassmarket, Edinburgh EH1 2LJ.

The applicant is Dr Boris Liedtke. He is the named landlord on the written lease between the parties and one of the heritable proprietors of the property. His wife, Mrs Adeline I-Hsuan Liedtke, is the joint proprietor of the property. She consented to the lease and consents to these proceedings. The respondent is Mr Yasin Ozkan who is the tenant.

The parties entered into a private residential tenancy which commenced on 13 December 2019.

The rent stipulated in terms of the written lease between the parties was £1,150 per month. There is evidence that a £200 non-returnable 'holding fee' was charged to the tenant on or about 5 December 2019. Such holding fees or 'premiums' have been banned in Scotland since 1 December 2017. This £200 was added to the deposit paid in the sum of £1,150 and the total of £1,350 was paid into an approved tenancy deposit scheme.

The respondent vacated the property on or about 13 March 2021. The underpayment of rent up to his departure totalled £4,910. Upon the respondent leaving, the applicant applied to the approved tenancy deposit scheme for the deposit held, in the total sum of £1,350, to be paid to him due to the rent arrears. Thus the amount of unpaid rent outstanding amounts to £3,560.

The tribunal attached weight to the unchallenged rent statement which was found to be credible and reliable. The applicant is entitled to recover rent lawfully due under and in terms of the lease. A payment order in the sum of £3,560 is justified and necessary for the applicant to recover the sums due. The respondent has failed or delayed to pay the sums due. No time to pay application has been made.

In terms of the written application a number of other charges were sought to be recovered. Following discussion the applicant withdrew these other ancillary claims.

In the application interest is also sought. Clause 8 of the lease agreement provides for the application of interest at 8%. Such a request at such rate is equivalent to a claim for judicial interest which has no application to the First-tier Tribunal. The Administration of Justice (Scotland) Act 1972, Section 4 as amended by the Act of Sederunt (Interest in Sheriff Court Decrees and Extracts) 1993 covers the payment of judicial interest in the Sheriff Court and these provisions have not been extended to the Tribunal. The payment of a rate of interest at 8% has no statutory basis for the Tribunal. A rate more in line with the use value of money and the loss actually suffered

by the applicant corresponding to the investment/borrowing rate would reflect the real loss suffered by the applicant can be justified. Interest at 3% per annum is an appropriate rate of interest to be imposed by the Tribunal. The applicant indicated a willingness to accept the application of interest at this limited rate from the date of decision 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.**

**Richard Mill**

**25 January 2022**

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**Legal Member/Chair**

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**Date**