



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

Chamber Ref: FTS/HPC/CV/21/2952

**Re: Property at 11 Dalziel Gait, Cambuslang, Glasgow, South Lanarkshire, G72
7UU (“the Property”)**

Parties:

**Mr Iftekhar Ahmed, 3/2 18 Carrington Street, Glasgow, Lanarkshire, G4 9AL (“the
Applicant”)**

**Mr George McKenna, 11 Dalziel Gait, Cambuslang, Glasgow, South
Lanarkshire, G72 7UU (“the Respondent”)**

Tribunal Members:

Karen Kirk (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) granted a Payment Order against the Respondent for the sum of
£7200 with interest at the rate of two percent per annum from the 7th January
2022.**

Introduction

This CMD concerned an Application for Civil Proceedings in relation to a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference due to the covid-19 pandemic.

1. Attendance and Representation

The Applicant was present and represented by Fraser Napier ~~mia Matheson~~, solicitor, Jackson Boyd, 69 Wellington Street, Glasgow G2 6HG

The Respondent was not present. He was served by sheriff Officer on 31st December 2021. The Respondent had not lodged written representations.

2. Preliminary Matters

The Respondent was not present. An application to amend the sum sought in the original application was made on 7th January 2022. This was sent to the Respondent. The Applicant sought to increase the sum sought in the Application from £6400 to £7200 plus interest at 8% from the date of service. At the start of the CMD the Tribunal amended the sum sought to £7200.

There were no other preliminary issues raised.

3. Summary of Hearing

The Applicant's representative set out that the rent for the property in terms of the ~~agreement was~~ Short Assured Tenancy was £800 per month. He said the level of rent arrears was now £7200 and reference was made to the rent statement lodged with the amendment application on 7th January 2022. The Applicant's said they had written to the Respondent with no response. They sought a payment order for the sum of £7200 plus interest at 8%. There was no contractual terms covering interest and the application did not include interest. However the Applicant's representative submitted that he sought interest in the tribunal's discretion. The Applicant's representative set out that he sought an Order for Payment for the sum of £7200 in terms of Section 71 Private Housing (Tenancies) (Scotland) Act 2016 plus interest.

4. Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the CMD based on the information before the Tribunal. The Respondent had been intimated with an application for amendment on 7th January 2022 and had been served by Sheriff Officers service on the Application and notification of the CMD date on 31st December 2021. It was in the interests of the parties having regard to the Overriding objective to proceed.**
- 2. The Applicant sought an Order for Payment.**
- 3. The Tribunal was satisfied on the evidence that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a valid Short Assured Tenancy in place between parties dated 31st March 2017.**
- 5. The rental payment in terms of this agreement was £800 per calendar month.**
- 6. Rent due by the Respondent to the Applicant in terms of the rent statement lodged as of 7th January 2022 was £7200.**
- 7. The Tribunal was satisfied on balance that it was appropriate to grant a Payment Order for £7200.**

8. Accordingly, in terms of Section 11 of the 2016 Act the Tribunal granted a Payment Order against the Respondents.
9. The Tribunal considered that there was no contractual interest and the Applicant had not sought interest in the Application. The Tribunal noted the Application to amend did include a specific request for interest and this was dated 7th January 2022 and intimated on the Respondent. In the circumstances and having regard to the pandemic the Tribunal in their discretion awarded interest at 2% but from the 7th January 2022 which was the date on the amendment application and the first date when the Respondent could have been made aware of the request for interest as this was not present in the Application.

5. Reasons for Decision in Absence.

The Tribunal heard from the Applicant's representative together with the Applicant being personally present. There was substantial productions relating to the property and rent arrears. The Tribunal declined on this occasion to exercise its discretion to award interest as sought at 8% from the date of service in all the circumstances. The Respondent was not present and although the application had not sought interest ~~no amount was sought and~~ there had been a request for same stated on the application to amend of 7th January 2022. Accordingly the Tribunal in their discretion considered that in the interests of justice and fair notice it was appropriate to award interest from the 7th January 2022 and that a fair and proportionate level of interest there being no contractual interest was 2% per anum from the 7th January 2022.

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.

K. Kirk

4 February 2022

Legal Member/Chair

Date