



**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) Act 2016**

Chamber Ref: FTS/HPC/CV/22/0228

**Re: Property at Flat 1 Craignethan Apartments, 69 Abbeygreen, Lesmahagow,
ML11 0EF (“the Property”)**

Parties:

**Residential Loans Ltd, 1st Floor Right, 65 Bath Street, Glasgow, G2 2BX (“the
Applicant”)**

**Mr James Cowan, Flat 1 Craignethan Apartments, 69 Abbeygreen,
Lesmahagow, ML11 0EF (“the Respondent”)**

Tribunal Members:

Shirley Evans (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to make an order for payment against the Respondent in
favour of the Applicant in the sum of THREE THOUSAND TWO HUNDRED
POUNDS (£3200) STERLING. The order for payment will be issued to the
Applicant after the expiry of 30 days mentioned below in the right of appeal
section unless an application for recall, review or permission to appeal is
lodged with the Tribunal by the Respondent.**

Background

1. This is an application dated 26 January 2022 made by the Applicant for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties signed and dated 21 August 2019, a rent statement and various letters from Country Let to the Respondent.
3. On 5 April 2022 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 5 May 2022 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 26 May 2022. The Tribunal advised parties on 5 May 2022 that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 14 June 2022.
5. The Respondent did not make any written representations. Neither party appeared or was represented at the CMD on 14 June 2022. The Tribunal issued a written decision to reject the application on 14 June 2022. A copy of the decision was intimated to parties on 14 June 2022 (“the decision”).
6. On 16 June 2022, the Applicant sent an email to the Tribunal explaining that due to an oversight on her part and due to ill health she had been unable to attend the CMD and that she was taking advice. On 17 June 2022 the Tribunal received a further email from the Applicant requesting the decision be recalled and apologising for missing the CMD due to illness.
7. A copy of the Applicant’s agent’s email of 17 June 2022 was sent to the Respondent on 17 June 2022. The Respondent made no representations in response. Having considered the recall application, the Tribunal recalled the decision of 14 June 2022 on 20 June 2022.
8. Thereafter the Tribunal fixed a new CMD to proceed on 5 October 2022. On 25 August 2022 the Tribunal parties that the CMD under Rule 17 of the Regulations would proceed on 5 October 2022. This paperwork was served on the Respondent by Recorded Delivery letter on 25 August 2022 and thereafter received and signed by the Respondent.

Case Management Discussion

9. The Tribunal proceeded with a CMD on 5 October 2022 by way of teleconference. Mrs Fleming from the Applicant appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent despite the teleconference starting 5 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence together with an application for eviction under reference FTS/HPC/EV/22/2963.

10. The Tribunal had before it the Private Residential Tenancy Agreement between the parties signed and dated 21 August 2019, a rent statement to 21 July 2022 showing arrears of £3200 and various letters from Country Let to the Respondent dated from 6 September 2021 to 12 August 2022. The Tribunal considered these documents.
11. Mrs Fleming explained that the Respondent was now in arrears to 21 September 2022 of £4100. With reference to the rent statement, she explained the last payment to the rent account of £600 was made on 29 April 2022. The Tribunal noted that in terms of Clause 8 of the tenancy agreement the Respondent had agreed to pay rent of £450 per month. The Applicant's agents Country Let regularly wrote to the Respondent. The Tribunal noted the last letter was dated 12 August 2022 advising the Respondent that the arrears were £3200. On being questioned by the Tribunal Mrs Fleming could not confirm that the Respondent had been advised by Country Let that arrears were £4100. Mrs Fleming advised that Country Let were based close to the Property and had attended at the Property on numerous occasions. However the Respondent never opened the door to them.

Findings in Fact

12. The Applicant and the Respondent agreed by way of Clause 8 of a Private Residential Tenancy Agreement dated 21 August 2019 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £450.
13. The Respondent has fallen into arrears of rent. The arrears as of 21 September 2022 were £4100. The last payment made to the rent account by the Respondent was £600 on 29 April 2022.
14. The Applicant's agent Country Let regularly wrote to the Respondent to advise him of the arrears. They advised the Respondent on 12 August 2022 that the arrears were £3200.

Reasons for Decision

15. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mrs Fleming
16. The Tribunal noted the terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to 21 September 2022 as being £4100. The Tribunal accepted the submissions of Mrs Fleming as being credible. She had been candid by stating that she was not sure whether the agent Country Let had written to advise the Respondent since 12 August 2022 to advise that his arrears were £4100. The Tribunal was not satisfied that the Respondent knew arrears had increased from £3200. The Respondent had however agreed to pay rent under the tenancy agreement. Mrs Fleming had produced evidence of

persistent non- payment of rent with reference to the rent statement and the letters from Country Let to the Respondent. The Tribunal was satisfied on the basis of the documents, together with Mrs Fleming's submissions that the order for payment in favour of the Applicant be granted.

Decision

17. The Tribunal granted an order for payment of £3200. 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.

Shirley Evans

5 October 2022

Legal Chair

Date