



**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/22/0915**

**Re: Property at Flat 11, 7 Arneil Drive, Edinburgh, EH5 2GN (“the Property”)**

**Parties:**

**Lar Housing Trust, F3 Buchan House, Carnegie Campus, Enterprise Way, Dunfermline, Fife, KY11 8PL (“the Applicant”)**

**Mr Stephen Slyth, Miss Michaela Reynolds, Flat 11, 7 Arneil Drive, Edinburgh, EH5 2GN (“the Respondent”)**

**Tribunal Members:**

**Yvonne McKenna (Legal Member) and Ann Moore (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment should be made in the sum of £11,892.98 with interest at the rate of 2.5% against the Respondent in favour of the Applicant**

1. This application is under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant seeks an order for payment in respect of rent arrears.
2. The Applicant lodged with the application the following documentation;-
  - Private Residential Tenancy Agreement with a start date of 20 March 2018.
  - Notice to Leave dated 8 September 2021
  - Confirmation of sending by e-mail on 8 September 2021 of Notice to Leave to the Respondent
  - Rent Statement
  - Section 11 Notice
  - Email to Local Authority intimating section 11 Notice dated 30 March 2022
  - Pre-Action Requirements Letter

3. Intimation of the application was effected on the Respondent by Sheriff Officers on 19 May 2022 together with details of the Case Management Discussion.
4. The Respondent did not lodge any submissions in advance of the Case Management Discussion.
5. On 14 June 2022 the Applicant lodged an application to amend the sum sought in terms of Rule 14A to take account of ongoing unpaid rent since the application was made to the tribunal. An updated rent statement was lodged showing the rent arrears due as being £11,892.98. This was intimated on the Respondent by the Applicant by recorded delivery and was also intimated by the tribunal.

### **The Case Management Discussion (CMD)**

6. The CMD took place by teleconference on 29 June 2022 at 2pm.
7. The Applicant's Representative attended namely Ms Kirstie Donnelly of TC Young Solicitors.
8. The Respondent did not attend and was not represented.
9. This action was conjoined with an application for eviction which is being dealt with by the Tribunal under reference FTS/HPC/EV/22/0913.
10. The tribunal asked Ms Donnelly if the Applicant had any contact with the Respondent. Ms Donnelly said that the last contact was in March 2022. Efforts have been made by the Applicant to contact the Respondent since then with monthly reminders being sent out. The Respondent had been sign-posted by the Applicant to take advantage of the Tenants Hardship Fund but this has not been processed.
11. Ms Donnelly said that there have been issues regarding accessing the Property and that separate proceedings have been raised before the Tribunal by the Applicant seeking access.
12. There has been a complete lack of engagement by the Respondent.
13. As far as the Applicant is aware the Respondent is still living in the Property.
14. Ms Donnelly submitted that the tribunal should grant the payment order.
15. The Respondent Mr Slyth is 40 years of age and the Respondent Miss Reynolds is 46 years of age. They are both believed to be in employment. They have a son aged 20 and two daughters aged 15 and 12 who are believed to be residing at the Property as well.
16. Ms Donnelly said that the Property was purchased by the Applicant from the previous owner with the Respondent as a sitting tenant. The papers indicated that at the time the Property changed ownership that the Respondent owed the previous owners £17,062.60.
17. Rent has accrued since the date the Applicant purchased the Property. The rent due to the Applicant has been apportioned to take account of the entry date of 4 May 2021.

18. Shortly after purchase the Property Manager attempted to discuss the rent payments and arrears, however there was no response. Subsequently pre-action requirement letters were sent out, and there has been again no response. Since the title was taken in the name of the Applicant which was on 4 May 2021 no rent has been received.
19. Arrears are continuing to accrue at an alarming rate.

### **Findings in Fact**

20. The Property is Flat 11, 7 Arneil Drive, Edinburgh, EH5 2GN
21. The Applicant is Lar Housing Trust. The Applicant is the heritable proprietor.
22. The Applicant purchased the Property with an entry date of 4 May 2021.
23. The Applicant purchased the Property with the Respondent as a sitting tenant.
24. The Respondent is Mr Stephen Slyth and Miss Michaela Reynolds.
25. The Respondent is the tenant.
26. The Respondent entered into a Private Residential Tenancy (PRT) with a previous owner which commenced on 20 March 2018.
27. The rent was stipulated at £828.28 per month.
28. The Respondent has fallen into arrears of rent.
29. At the time that the Notice to Leave was served the rent arrears stood at £4197.87. As at the date of the application the rent arrears had risen to £9316.65. As at the date of the CMD the Respondent owes the sum of £11,892.98 in unpaid rent to the Applicant.

### **Reasons for Decision**

30. In terms of Rule 17 the tribunal may do anything at a CMD which it may do at a hearing including making a decision.
31. The tribunal was satisfied that in terms of the tenancy agreement which was lodged with the Tribunal, along with the updated rent statement that rent is due at the rate of £828.28 per month and that as at the date of the CMD that £11,892.88 is outstanding. The Applicant has correctly apportioned the rent due from the date that the Applicant purchased the Property with the Respondent as a sitting tenant. The Applicant is entitled to a payment order for this sum.
32. Ms Donnelly suggested that it was in the tribunal's discretion to fix the interest rate and suggested an annual interest rate of between 2-3 % would be appropriate.
33. The Tribunal in its discretion fixes the interest rate on the Payment Order at 2.5 % per annum from the due date until paid.

## **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.**

Yvonne McKenna

29 June 2022

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**Legal Member/Chair**

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**Date**