



**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) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/22/1677**

**Re: Property at 38 Willow Lane, Dumfries, DG1 3TZ (“the Property”)**

**Parties:**

**Mrs Michele Dorine Kirkpatrick, 38 Carolines Crescent, Ellon, AB41 8BN (“the Applicant”)**

**Mr Ben Stokoe, 38 Willow Lane, Dumfries, DG1 3TZ (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order for the Sum of £6700 with Interest thereon at the rate of three percent by anum running from the date of the decision of the First-tier Tribunal to grant this order, being 25<sup>th</sup> August 2022, until payment.**

**Introduction**

This Case Management Discussion (CMD) concerned an Application in relation to Civil Proceedings in connection with a Private Residential Tenancy under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference due to the covid-19 pandemic.

**1. Attendance and Representation**

Aaron Doran, Raeburn Christie Clark & Wallace, 12-16 Albyn Place, Aberdeen, AB10 1PS attended for the Applicant.

The Respondent was present.

## 2. Preliminary Matters

The Tribunal discussed with the parties that this Application and an Application for Eviction in respect to the same Tenancy which had been lodged and processed by the Tribunal at the same time and would be dealt with at the hearing alongside each other.

The Tribunal noted that the Applicant's representative had lodged an updated rent statement and an application to amend the sum sought to £6700. The Applicant's representative moved the amendment and had also submitted written submissions in support an amendment. The Respondent accepted that £6700 was the rent arrears due in terms of the tenancy as at 22<sup>nd</sup> August 2022. The Tribunal formally allowed this application to be amended.

The PRT lodged was not signed by the Respondent. The Respondent confirmed the tenancy lodged was the agreement between the parties.

## 3. Summary of Discussion

### *For the Applicant*

1. The Applicant's representative set out that the Applicant sought that the Tribunal grant an order for payment for the amended sum of £6700. He submitted parties entered a PRT dated 16<sup>th</sup> September 2020 for the property. The Applicant's representative submitted that the rent for the property was £500 per calendar month. As at the 22<sup>nd</sup> August 2022 the Respondent was in arrears of rent of £6700 and this amounted to over 13 months of arrears. The Applicant's representative said that the last payment made to the rent account was £800 was in July 2021.
2. The Applicant's representative said that the Applicant sought to contact and assist the Applicant but no proposals had been received. The Applicant sought an Order for Payment for the sum of £6700 plus interest in terms of Section 71 Private Housing (Tenancies) (Scotland) Act 2016 .

### *For the Respondent*

3. The Respondent told the Tribunal that he was in agreement with the rent arrears, the updated rent statement and the fact that they were due to the Applicant. He said he had been struggling the last couple of years with a gambling addiction and his mental health was not the best. The Respondent said he went to the citizen's advice bureau to take legal advice and seek representation. They provided advice on what would happen at the Tribunal. He thought that the council homeless team had put a financial proposal to the Applicant's representative.
4. The Applicant confirmed he had been in and out of work but had now been working for 4 months in a new job. The Respondent was in the assessment

process to consider if he had ADHD. He next sees his doctor tomorrow and has sought to address his gambling in a number of ways. He has not been gambling for 2 months.

#### **4. Findings in Fact/Reasons for Decision.**

- 1. The Tribunal was satisfied that a decision could be made at the CMD based on the information before the Tribunal. The Respondent did not dispute the rent arrears and admitted the amount due. It was in the interests of the parties having regard to the Overriding objective to proceed to determine the application.**
- 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 Private Residential Tenancy in place between parties dated 16<sup>th</sup> September 2020.**
- 5. The rental payment in terms of this agreement was £500 per calendar month.**
- 6. Rent due by the Respondent to the Applicant as at 22<sup>nd</sup> August 2022 in terms of the rent statement lodged was £6700.**
- 7. The Tribunal was satisfied on balance that it was appropriate to grant a Payment Order for £6700.**
- 8. Accordingly, in terms of Section 71 of the 2016 Act the Tribunal granted a Payment Order against the Respondents.**
- 9. The Applicant sought interest as per the Application and given no contractual interest was specified determined that a fair and reasonable amount of interest in all the circumstances was 3%.**

#### **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.**



25<sup>th</sup> August 2022

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Legal Member/Chair

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Date