



**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/22/1801**

**Re: Property at 70 Alyth Drive, Polmont, Falkirk, FK2 0YW (“the Property”)**

**Parties:**

**Mrs Jane Watson, 10 Woodhill Road, Blackridge, West Lothian, EH48 3RN (“the Applicant”)**

**Mr Christopher Fitzpatrick, 70 Alyth Drive, Polmont, Falkirk, FK2 0YW (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes**

**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 granted in favour of the Applicant in the sum of £2660.**

**Background**

1. This is an application received on 10<sup>th</sup> June 2022 and made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (‘the Rules’).
2. The Applicant is the landlord of the Property, and the Respondent is the tenant, in terms of a tenancy agreement that commenced on 21<sup>st</sup> August 2020 at an agreed rent per month of £380.
3. The Applicant lodged a copy of the tenancy agreement, copy correspondence to the Respondent and a rent statement. The Applicant was seeking an order for payment in respect of unpaid rent in the sum of £2660 together with any interest or charges accrued in terms of clause 37(a) of the tenancy agreement.
4. Service of the application and notification of a Case Management Discussion upon the Respondent was carried out by Sheriff Officers on 26<sup>th</sup> July 2022.

## **The Case Management Discussion**

5. A Case Management Discussion took place by telephone conference on 6<sup>th</sup> September 2022. The Applicant was in attendance. The Respondent was not in attendance.
6. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the Hearing. The Tribunal determined that the requirements of Rule 17(2) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant and the material before the Tribunal.
7. The Applicant informed the Tribunal that she had made an application to amend the sum sought to £3457.48. The application had not been passed to the Tribunal. The CMD was adjourned to allow the Clerk to investigate matters.
8. The Clerk provided the Tribunal with emails from the Applicant. Due to issues with opening files, the amended rent statement was received by the Housing and Property Chamber on 30<sup>th</sup> August 2022. There was no evidence of service of the amendment upon the Respondent, although the Applicant assumed the letting agent had done so, as she had a letter stating this, dated 22<sup>nd</sup> August 2022.
9. In all the circumstances, the Tribunal took the view that it would not be appropriate to grant the application for amendment as the terms of Rule 14A of the procedure rules had not been complied with, in that the period of notice to the Tribunal was less than the 14 days required, and there was no evidence before the Tribunal that the Respondent had been notified of the application for an increase.
10. There was some discussion about adjourning to allow the Applicant to make a further application for an increase; however, the Applicant moved the Tribunal to grant the order for payment in the sum originally sought.
11. The Applicant said the Respondent had recently allowed the letting agent to access the Property for inspection purposes. During discussion, he had said he was in employment and would make payment at the end of August. No payment had been forthcoming.

## **Findings in Fact and Law**

12.
  - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 21<sup>st</sup> August 2020 at an agreed rent per month of £380.

- ii. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
- iii. The Applicant is entitled to recover rent lawfully due.

### **Reasons for Decision**

13. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties. The Tribunal noted that no reasonable costs incurred as a result of the Respondent's failure to pay rent had been included within the application in terms of clause 37(a) of the tenancy agreement, therefore no award was made in this regard.

### **Decision**

14. An order for payment is granted in favour of the Applicant in the sum of £2660.

### **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.**

Legal Member/Chair

\_\_\_\_\_

**6<sup>th</sup> September 2022**  
**Date**

