



**Decision with Written Statement of Reasons of the of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Housing (Scotland) Act 2014.**

**Chamber Ref: FTS/HPV/EV/22/1977**

**Re: Property at 48 Bishops Park, Midcalder, Livingston, EH53 0SS (“the Property”)**

**Parties:**

**Mr Stewart Bruce, 4 Hillview Lane, Murieston, Livingston, EH54 9HP (“the Applicant”)**

**Miss Kerry Fraser, 48 Bishops Park, Midcalder, Livingston, EH53 0SS (“the Respondent”)**

**Tribunal Member:**

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

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent for £13,680.**

## **1. Introduction**

This Case Management Discussion (CMD) concerned an Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 2014. The CMD took place by teleconference.

## **2. Attendance and Representation**

The Applicant was represented by Jennifer Henderson, Clarity Simplicity Ltd, 34 Woodlands Road, Glasgow, G3 6UR.

The Respondent was present.

### **3. Preliminary Matters/Procedural Background.**

- a) This application had called before at the Tribunal and was adjourned to a further Case Management Discussion. The Tribunal had considered it was reasonable and in the interests of justice to continue matters to allow the Respondent to obtain money and or legal advice and to also submit a Time to Pay application as she had admitted liability for the debt due at the CMD.
- b) Since the date of that hearing the Respondent confirmed that she had spoken to the Advice Shop and had taken advice but she was not lodging a Time to Pay application.
- c) The Applicant's representative referred to the up to date rent statement lodged on 16<sup>th</sup> March 2023 and she confirmed in light of same that she sought the Tribunal allow her to amend the sum sought together with an up to date rent statement. The applicant's representative sought to amend the sum sought to £13,680. The respondent did not object and admitted liability for the amended sum. The Tribunal allowed the application to be amended.
- d) There were no preliminary matters raised.

### **4. Summary of Discussion**

#### *For the Applicant*

The Applicant's representative sought a payment order for £13,680. She submitted that the Applicant had been facing financial hardship due to the lack of rent and the mortgage payments for the property having increased to more than the rental payment due.

#### *For the Respondent*

The Respondent said she had now got advice and was not in a position to make a Time to Pay Application. She accepted that she owed rent arrears of the sum now sought.

### **5. Findings in Fact**

1. This Application is dated 21<sup>st</sup> June 2022 and brought in terms of Rule 70 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as an application for civil proceedings in relation to an assured tenancy under the 1988 Act.

2. The Applicant is the heritable propriety of the property at 48 Bishops Park, Midcalder, Livingston, EH53 0SS.
3. The Applicant and the Respondent signed a Tenancy for the property on 7<sup>th</sup> November 2012.
4. This Tenancy is a Tenancy under the Housing (Scotland) Act 1988.
5. Rent payable under this tenancy was £550 per month and thereafter increased on 31<sup>st</sup> August 2021 to £600 per month.
6. As at the rent statement lodged on 16<sup>th</sup> March 2023 the rent due by the Respondent to the Applicant was £13,680.
7. The Tribunal granted a Payment Order against the Respondent for the sum of £13,680.

## **6. Reasons for Decision**

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the Respondent was in arrears of rent lawfully due and an up to date Rent Statement detailing this for the property had been lodged. The Respondent accepted same. The Tribunal granted an Order for payment.

## **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

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**Legal Member**

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**Date: 31/03/2023**

