



**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/22/2571**

**Re: Property at 108 Poplar Street, Greenock, PA15 2RB (“the Property”)**

**Parties:**

**Martin Docherty Limited, 40 Brisbane Street, Greenock, PA16 8NP (“the Applicant”)**

**Mr Alexander Williams Montgomery, 108 Poplar Street, Greenock, PA15 2RB (“the Respondent”)**

**Tribunal Members:**

**Anne Mathie (Legal Member) and Melanie Booth (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in respect of rent arrears in the sum of one thousand five hundred and seven pounds and sixty two pence (£1507.62) be granted**

**Background**

1. An application dated 26 July 2022 was submitted to the Tribunal in terms of Rule 111 of the Chamber Rules being an application for civil proceedings along with an application for a Private Residential Tenancy Eviction Order (FTS/HPC/EV/22/2570).
2. Along with the application form was lodged a copy of the tenancy agreement and a rent demand.
3. The application was acknowledged by the Tribunal by email dated 28 July 2022 with instruction about email attachments. The Tribunal also requested clarification of the Respondent’s email address.

4. The Applicant's agents replied by email of 29 July 2022 confirming the Respondent's email address.
5. On 30 July the Tribunal emailed the Applicant's agents asking for an amended page of application form showing the full name of the Respondent.
6. The Tribunal wrote to the Applicant's agents on 1 September 2022 asking for the following further information:
  - The full name of the Respondent
  - A rent statement
  - Requesting that the Applicant's agents consider the amount of arrears stated in the eviction action as it differed from the amount stated in the civil action and for an explanation of this.
7. The Applicant's agents emailed the Tribunal again on 6 September with a new contact telephone number for the Respondent and confirming that, while the current balance on the account for rent arrears was £4572.62 the payment order requested in the civil application was £1757.62 as a previous payment order for rent arrears had been granted by the Tribunal on 16 February 2022 for the sum of £2815.
8. A fresh application form dated 6 September 2022 was submitted with a figure of £1757.62 requested due to further rent arrears having accrued.
9. The application was set down for a case management discussion today. Intimation of the application and Case Management Discussion was served on the Respondent. The Respondent was advised that he was required to submit any written representations to the Tribunal by 18 October 2022. No written representations have been received.
10. The Respondent was advised in the letter that he was required to take part in today's case management discussion. He was further advised:

*"The Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision on the application which may involve making a decision on the application which may involve making or refusing a payment order. If you do not take part in the case management discussion, this will not stop a decision or order being made by the Tribunal if the Tribunal considers that it has sufficient information before it to do so and the procedure has been fair."*

#### The Case Management Discussion

11. The case management discussion took place today by teleconference. The Tribunal considered the documents and evidence included in the application before it along with the oral submissions of the Applicant's agent. There was nothing before the Tribunal challenging this information. The Applicant's agent advised that she had applied for and secured a local authority Coronavirus related grant in the sum of £250 towards the rent arrears in this case. She was seeking a figure of £1709.62 representing the current amount

of arrears less the £250 grant proceeds. The Tribunal advised that the amount of arrears sought in the amended application was £1757.62 and therefore the maximum amount the Tribunal could award would be that figure less the £250 grant in the absence of any increased rent arrears figure being intimated to the Respondent.

### Findings in Fact

12. – the Respondent was due to pay rent in the sum of £395 per calendar month to the Applicant in terms of the tenancy agreement between the parties.
- the Respondent had fallen into arrears with rent payments and a previous payment order in the sum of £2815 had been granted by the Tribunal in February 2022.
  - The amount that could granted by the Tribunal was the amount stated on the amended application form of £1757.62 less the £250 Coronavirus grant received by the Applicant's agents.

### Reasons for Decision

13. The Tribunal took into account the papers and evidence before it including the oral submissions of the Applicant's agent. There was nothing challenging this information.

### Decision

14. The Tribunal decided to grant a payment order for payment by the Respondent to the Applicant in the sum of £1507.62 in respect of rent arrears.

### **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.**

# A Mathie

**4 November 2022**

**Legal Member**

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**Date**

Anne Mathie

