



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 Private Housing Tenancies (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/22/2709**

**Property at 7 Wyburn Place, Ayr, KA8 9AY (“the Property”)**

**Parties:**

**CDP Property Limited, 29 Bellevue Road, Prestwick, KA9 1NJ (“the Applicant”)**

**Mr James Littlejohn, formerly residing at 7 Wyburn Place, Ayr, KA8 9AY and now at 116 Morris Crescent, Hurlford, Kilmarnock, KA1 5BH (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Elaine Munroe (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 for the sum of £2832.55 should be granted against the Respondent in favour of the Applicant.**

**Background**

1. The Applicant seeks an order for payment in relation to unpaid rent. Documents lodged in support of the application include a tenancy agreement and rent statement. A related application for an eviction order was also lodged.
2. A copy of the applications and supporting documents were served on the Respondent by Sheriff Officer. Both parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 22 November 2022 at 10am, and they were required to participate. The CMD took place on 22 November 2022. The Applicant was represented by Ms

Daly, one of its directors. The Respondent participated and was represented by Mr Tierney of Ayr Housing Aid Centre.

3. Ms Daly told the Tribunal that the Applicant was seeking an eviction order and order for payment. She said that the arrears of rent were now £2974.53. The Tribunal noted that the sum outstanding in terms of the rent statement lodged with the application was £2850 on 2 August 2022. Mrs Daly said that she applied for direct payments from Universal Credit and started receiving payments on 16 September 2022. However, these do not cover the rent charge. Mr Littlejohn has made no additional payments.
4. Mr Tierney told the Tribunal that he could not confirm whether the current level of arrears was as stated by Mrs Daly until an updated rent statement had been provided and discussed with the Respondent. He said that the Respondent is in receipt of ESA, PIP, and housing benefit. The housing benefit of £333 is paid direct to the Applicant and there is a deduction of £60 per month from his ESA which is also paid to the Applicant, for the arrears. However, this does leave a shortfall. Mr Tierney said that Mr Littlejohn has not always fully engaged with him and other support services. However, he is currently engaging with various services including a social worker, a tenancy support worker, and a criminal justice social worker. He is also back in touch with his parents. He has made an application for housing from the Local Authority but had not yet received an offer.
5. The parties were advised that the applications would proceed to a hearing. A direction was issued for the production of further documents, including an updated rent statement. The parties were notified of the date of the hearing. Prior to the hearing, both Mr Tierney and Ms Daly notified the Tribunal that the Respondent had vacated the property at the end of January 2023. The eviction application was withdrawn, and the hearing was postponed. The parties were then notified that the hearing would take place by telephone conference call on 10 May 2023 at 10am. The hearing took place on this date. The Applicant was again represented by Ms Daly and the Respondent by Mr Tierney. The Respondent did not participate.

## **The Hearing**

6. Mr Tierney told the Tribunal that he has had contact periodically from the Respondent but most of the contact has been with Social Work and support workers. He received a copy of an updated rent statement from Ms Daly, and this was emailed to the Respondent. He also sent him the details of the hearing, but the Respondent has not been in touch. The Council provided him with a new telephone number for the Respondent, but it goes straight to voicemail when he calls. He understands that the Respondent is currently living at 116 Morris Crescent, Hurlford, having presented as homeless in East Ayrshire although he was already being provided with temporary accommodation by a

different Authority. Mr Tierney told the Tribunal that, as the Respondent is aware of the date of the hearing and the updated rent statement, he was not seeking an adjournment of the hearing. However, he could not say whether the sum specified in the statement is accepted as he is without instructions from the Respondent.

7. Ms Daly told the Tribunal that she had submitted an updated rent statement to the Tribunal but had not received an acknowledgement that it had been received. She said that the sum due at the end of the tenancy was £3256.55. Between September 2022 and January 2023, she had received 5 payments from the DWP of £383.49. This left a shortfall each month which the Respondent did not meet. At the end of the tenancy, the Applicant recovered the deposit of £425 from the deposit scheme and applied it to the rent arrears, as that is what she said she would do. This left a balance due of £2832.55. A payment order is sought for this sum. Ms Daly also advised the Tribunal that she has had no contact from the Respondent since he vacated the property and no payments have been received. She has incurred costs in re-instating the property because of damage caused by the Respondent.

### **Findings in Fact**

8. The Applicant is the owner and landlord of the property.
9. The Respondent is the former tenant of the property.
10. The Respondent was due to pay rent at the rate of £425 per month.
11. The Respondent vacated the property on 26 January 2023.
12. The Respondent owes the sum of £2832.55 in unpaid rent to the Applicant.

### **Reasons for Decision**

13. The Respondent is aware of the application and the date of the hearing. He was also provided with a copy of an updated rent statement by his representative. He did not participate in the hearing or lodge any representations. He did not provide his representative with instructions regarding the application, or the sum specified in the updated statement.
14. From the documents lodged with the application, the information provided at the CMD, and the evidence led at the hearing, the Tribunal is satisfied that that the Respondent incurred rent arrears of £3257.55 prior to the tenancy ending on 26 January 2023. No payments have been made to the rent account since that date. The Applicant recovered the deposit of £425 and applied this to the arrears. This reduced the balance to £2832.55. The Tribunal is satisfied that the Applicant is entitled to an order for payment for the sum of £2832.55.

## **Decision**

15. The Tribunal determines that an order for a payment order should be granted against the Respondent.

## **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.**

Josephine Bonnar

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**Josephine Bonnar, Legal Member**

**10 May 2023**