



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/22/3919

Re: Property at Flat 9 5A Royston Mains Avenue, Edinburgh, EH5 1NN (“the Property”)

Parties:

Edinburgh Living LLP, Waverly Court 4 East Market Street, Edinburgh, EH8 8BG (“the Applicant”)

Thorntons Law LLP, Solicitors, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ (the Applicant’s Representative”)

Mr John Dewar, Flat 9 5A Royston Mains Avenue, Edinburgh, EH5 1NN (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Elizabeth Williams (Ordinary Member) (“the tribunal”)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) determined that an order of payment be made requiring the Respondent to pay the sum of NINE THOUSAND ONE HUNDRED AND THIRTY NINE POUNDS (£9139) to the Applicant.

Background

- 1. This is an application for payment in terms of Section 71 (1) (a) of the 2016 Act. The application is in respect of alleged rent arrears.**
- 2. It was accepted for determination on 18th November 2022.**

Case Management Discussion 23rd February 2023

- 3. A case management discussion was held by teleconference on 23rd February 2023.**
- 4. There was no appearance by either party and the application was dismissed.**
- 5. The Applicant was successful in having the decision to dismiss recalled.**

Case Management Discussion 7th June 2023

- 6. A case management discussion was held by teleconference on 7th June 2023. Mr Calvin Gordon, solicitor, appeared on behalf of the Applicant.**
- 7. There was no appearance by the Respondent and the tribunal was satisfied that intimation of the case management discussion and the associated documentation had been served on him on 16th May 2023.**
- 8. The purpose of a case management discussion was explained by the Legal Member.**
- 9. Prior to the case management discussion, the Applicant's Representative had submitted documentation seeking to amend the sum sought by the Applicant to £9139. An updated rent statement was submitted in support of the request for amendment.**
- 10. The tribunal noted that the Applicant's Representative had sent a copy of the request for amendment to the Respondent by email.**

Preliminary matters

- 11. Mr Gordon moved the tribunal to make an order for payment for £9139 and, in respect of the sums sought, to amend the application in terms of Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**
- 12. Mr Gordon submitted that the tribunal had all the necessary information to grant the order for payment and that an evidentiary hearing would not be necessary.**

13. Findings in Fact

- 13.1 The parties entered into a private residential tenancy for the Property on 14th December 2021.**
- 13.2 The Respondent continues to occupy the Property.**
- 13.3 In terms of the private residential tenancy, the Respondent was and is obliged to pay rent of £557 per month.**
- 13.4 As at 16th May 2023, there are arrears of rent amounting to £9139.**

Reasons

- 14. The tribunal had a copy of the private residential tenancy showing that monthly rent of £557 is due.**
- 15. The tribunal had regard to a rent statement submitted by the Applicant showing that, as at 16th May 2023, the sum of £9139 was due to the Applicant in respect of arrears of rent.**
- 16. The tribunal considered that it had sufficient information to determine the application and that it was reasonable to grant the Applicant's motion to amend the application to reflect the rent arrears showing in the statement which had been submitted.**
- 17. The tribunal accepted that the Respondent had not complied with his contractual obligations in terms of the private residential tenancy agreement and that he was in arrears of rent amounting to £9139. It was appropriate for an order of that amount be made requiring the Respondent to pay that sum to the Applicant.**

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.

Martin McAllister

**Legal Member
7th June 2023**