



**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/22/4157**

**Re: Property at 14 Ferguson Way, Airdrie, ML6 6EY (“the Property”)**

**Parties:**

**Mrs Cheryl McGeever, 87 Woodlands Crescent, Bothwell, G71 8PP (“the Applicant”)**

**Mr Robert Sands, 14 Ferguson Way, Airdrie, ML6 6EY (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Miss E Shand (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 should be granted in favour of the Applicant in the sum of £1222.**

**Background**

1. By application received on 16<sup>th</sup> November 2022 and made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £2147 in respect of unpaid rent. The Applicant’s representative lodged a rent statement, and a private residential tenancy agreement in respect of the Property commencing on 21<sup>st</sup> January 2021.
2. The application and notification of a Case Management Discussion (“CMD”) set down for 7<sup>th</sup> March 2023 was served upon the Respondent by Sheriff Officers on 31<sup>st</sup> January 2023.
3. By email dated 23<sup>rd</sup> February 2023, the Applicant’s representative lodged an updated rent statement showing an arrears balance of £2222.
4. On the morning of 7<sup>th</sup> March 2023, the Respondent sent an email to the Tribunal in the following terms:

*I called to speak to yourself regarding this mornings hearing. I wasn't aware I could be in attendance until I came across a email from my letting agent. I've a full days work ahead so can't even dial in*

*As of the 24th Feb the arrears are now £1222.00 and I had been due to bring this down further by paying a further £10000 before today's hearing. Still hopefully this payment can be made at some point this week.*

*I am self employed and such don't have a regular source of income. And iv been chasing overdue invoices constantly. One company ... have been promising payment on a invoice that's been due to been paid before now. It looks likely it may be paid this week. I have messaged Mr Paul Clark, my letting agent this.*

### **The Case Management Discussion**

5. A CMD took place by telephone conference on 7<sup>th</sup> March 2023. Neither party was in attendance. The Applicant was represented by Mr Paul Clerk, Aquila Management Services Ltd.
6. The Tribunal considered the terms of Rule 29. The Tribunal determined that service had been effected in terms of Rule 6A, the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent
7. Mr Clark explained the background to the application. The Respondent has failed to pay his rent timeously for a considerable period of time. He has had to be chased to make payment. He makes promises of payment that do not materialise, and this application is necessary to ensure he makes payment. There have been times when the rent balance has been cleared, however, the arrears always accumulate again. The letting agent has been involved in meetings with the Respondent, and with the Citizens Advice Bureau, to work out payment plans. The letting agent has assisted the Respondent in claiming from the Tenant Grant Fund, which cleared some arrears. The Respondent works freelance and claims his invoices are not being paid, and that he cannot pay the rent. Although he promises to clear the balance when his invoices are being paid, often he only pays a small amount to the arrears.
8. Mr Clark said the current outstanding balance is £1222. It was his position that, although the Respondent has said £1000 will be paid this week, he has made this kind of promise so often, Mr Clark would not expect the payment to be made.

## **Findings in Fact and Law**

- 9.
- (i) Parties entered into a private residential tenancy that commenced on 21<sup>st</sup> January 2021, with rent due in the sum of £525 per month.
  - (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**

10. The Respondent has failed to make payment of rent lawfully due, and does not dispute the outstanding sum. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

## **Decision**

11. An order for payment is granted in favour of the Applicant in the sum of £1222.

## **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**

**7<sup>th</sup> March 2023**  
**Date**