



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 70(1) of the Private Housing
Tenancies (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/22/4207

Re: Property at 39 Sunnyside Street, Camelon, Falkirk, FK1 4BJ (“the Property”)

Parties:

**Real Estate Wealth Development Limited, REWD Group HQ, Unit 4 Barons Court,
Grangemouth, FK3 8BH (“the Applicant”)**

**Mr James Riddoch, Ms Julie Anderson, 39 Sunnyside Street, Camelon, Falkirk,
FK1 4BJ (“the Respondent”)**

Tribunal Members:

Ruth O’Hare (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)s

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to make a payment order in the sum of Seven thousand
eight hundred and seventy pounds (£7,870) Sterling**

Background

- 1 By application to the Tribunal the Applicant sought a payment order against the Respondents in respect of the rent arrears in the sum of £7870. In support of the application the Applicant provided the following documentation:-
 - (i) Private Residential Tenancy Agreement between the parties dated 29 November 2019; and
 - (ii) Rent Statement.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for the

9th February 2023 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

- 3 On 31st January 2023 the Applicant submitted an updated rent statement to the Tribunal and requested an update to the rental figure sought to the sum of £9655.

Case Management Discussion

- 4 The Case Management Discussion took place by teleconference on 9th February 2023. The Applicant was represented by Mr Andrew Redmond of Anderson Strathern Solicitors. The Respondents were not in attendance. The Tribunal noted that they had been served with the application paperwork together with notification of the date and time of the Case Management Discussion and therefore determined to proceed in their absence.
- 5 The Tribunal asked Mr Redmond to address the Tribunal on the Applicants' position regarding the matter.
- 6 Mr Redmond advised that the application had been lodged in November 2022. At that point the arrears were £7870. The arrears had since increased to £9655. The Applicant sought payment in the increased sum. In response to questions from the Tribunal Mr Redmond noted that the request for amendment had not been intimated upon the Respondents but pointed out that they had been made aware of the increasing arrears by the Applicant. Rental invoices were sent to them on a regular basis.

Findings in Fact and Law

- 7 The parties entered into a Private Residential Tenancy Agreement dated 29 November 2019 which commenced on that date.
- 8 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 9 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £595 per calendar month.
- 10 As at the date of service of the Notice to Leave arrears in the sum of £6680 were outstanding.
- 11 As at 21 November 2022 arrears in the sum of £7870 were outstanding.
- 12 Despite repeated requests the Respondents have refused or delayed in making payment of the sum due.

Reasons for Decision

- 13 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. There were no substantive facts in dispute therefore the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved that required the hearing of evidence. The Respondents had been given the opportunity to participate in the proceedings but had chosen not to do so.
- 14 The Tribunal was satisfied based on its findings in fact that the Respondents were due to pay the sum of £7870 in terms of their obligations under the tenancy agreement between the parties. The Tribunal noted that the Respondents would have been made aware of the increasing arrears through the issue of rental invoices. However in the absence of formal notification of the request for amendment of the sum sought to the Respondents, the Tribunal was not satisfied that it could make a payment order for the increased amount, on the basis that the Respondents had not been given fair notice of the request in the context of the Tribunal proceedings. It would of course be open to the Applicant to pursue a further application for the balance outstanding if they wished to go down this route.
- 15 The Tribunal therefore determined to make an order for eviction against the Respondents. The decision of the Tribunal was unanimous.

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.

R O'Hare

9 February 2023

Legal Member/Chair

Date

