



**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/20/2654**

**Re: Property at Flat 2/1, 2 Overton Crescent, Johnstone, PA5 8JB (“the Property”)**

**Parties:**

**Mr Martin Docherty, 36 High Street, Johnstone, PA5 8AH (“the Applicant”)**

**Mr Kenneth McCarthy, 11 Walker Lane, Paisley, Renfrewshire, PA1 2BU (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment of Six hundred and forty pounds (£640) in favour of the Applicant against the Respondent**

**Background**

- 1 By application to the Tribunal, the Applicant sought an order against the Respondent for unpaid rent arrears. In support of the application the Applicant submitted Tenancy Agreement between the parties and 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 19 April 2021. Due to the imposition of restrictions arising from the Covid-19 pandemic a direction was issued to the parties by the Chamber President confirming that the Case Management Discussion would 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 served upon the Respondent by Sheriff Officers on 17 March 2021.

### **The Case Management Discussion**

- 3 The Case Management Discussion took place by teleconference on 19 April 2021. The Applicant was represented by Ms Kelly Deans, an employee of Penny Lane Homes. The Respondent was not present. The Legal Member noted that service of the application paperwork together with the date, time and details for joining the case conference had been served upon the Respondent by Sheriff Officers. She therefore determined to proceed in the Respondent's absence.
- 4 The Legal Member explained the purpose of the Case Management Discussion. Ms Deans confirmed that the Applicant sought an order for payment in the sum of £640. There had been no recent contact from him and no further attempts at payment. The Legal Member noted that a previous payment arrangement had been defaulted upon.

### **Findings in Fact and Law**

- 5 The parties entered into a private residential tenancy agreement in respect of the property which commenced on 20 January 2020.
- 6 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent to the Applicant at the rate of £380 per month.
- 7 The Respondent vacated the property on or around 16 June 2020 and the tenancy between the parties was terminated;
- 8 The last payment made to the rent account by the Respondent was a payment of £20 on 18 September 2020.
- 9 As the date of termination arrears in the sum of £640 were outstanding.
- 10 Despite repeated requests from the Applicant the Respondent has refused or delayed in making payment of the outstanding arrears.
- 11 The Respondent is due to pay the sum of £640 to the Applicant in terms of the Tenancy Agreement between the parties.

### **Reasons for Decision**

- 12 Having considered the written representations from the parties and the verbal submissions at the Case Management Discussion the Tribunal determined it could make a determination of the application and that to do so would not be prejudicial to the interests of the parties. There were no identified issues in dispute and therefore no requirement to fix a hearing in the matter.
- 13 Having considered the terms of the tenancy agreement and rent statement produced by the Applicant, and based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £640. The Respondent had been given the opportunity to make representations in response to the application and to attend the Case Management Discussion but had chosen not to do so. The Tribunal found the verbal submissions from Ms Dean at the Case Management Discussion to be credible and there was nothing before the Tribunal to contradict her position.
- 14 The Tribunal therefore made an order in the sum of £640 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.**



          Ruth O'Hare            
Legal Member/Chair

**19/04/2021**  
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Date