



**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/20/2154**

**Re: Property at 36G Glenacre Road, Cumbernauld, G67 2PA (“the Property”)**

**Parties:**

**Homelink Resources Ltd, Milton House, 33a Milton Road, Hampton, Middlesex,  
TW12 2LL (“the Applicant”)**

**TCH Law, 29 Brandon Street, Hamilton, ML3 6DA (“the Applicant’s Agent”)**

**Mr Jason Porter, 36G Glenacre Road, Cumbernauld, G67 2PA (“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 in the sum of £4200.09  
against the Respondent**

**Background**

- 1 By application to the Tribunal, the Applicant sought an order against the Respondent for unpaid rent arrears together with interest at 8% per annum from date of decision until payment. In support of the application the Applicant submitted Tenancy Agreement between the parties dated 25 February 2019, rent schedule and copy correspondence.
- 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 9 February 2021.

- 3 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 on 29 December 2020.
- 4 On 8 February 2021 the Applicant submitted an updated rent statement to the Tribunal confirming arrears of £4,200.09 as at 25 January 2021.
- 5 On 9 February 2021 the Tribunal received an email from Andy Knox, Solicitor from Lanarkshire Community Law Centre Ltd advising that he had been instructed by the Respondent in the proceedings. Mr Knox explained that the Respondent wished to dispute the application and cited issues with housing benefit.

### **The First Case Management Discussion**

- 6 The Case Management Discussion took place by teleconference on 9 February 2021. Ms Sadiq appeared on behalf of the Applicant. Mr Knox appeared on behalf of the Respondent.
- 7 Ms Sadiq explained that she was seeking an order for the amended sum of £4,200.09 together with interest at the rate of 8% per annum from the date of the decision until payment. The Respondent has been in rent arrears since March 2019. The monthly rent is £395. The Applicant is receiving payments of housing benefit but there is a shortfall of £35 per month. The Applicant is also receiving payments to the arrears from the Department of Work and Pensions in the sum of £60.73 per month. Ms Sadiq noted that Mr Knox had been recently instructed but advised that the Applicant had not received any communication from the Respondent prior to his involvement.
- 8 Mr Knox advised that he had been instructed on the Friday before the Case Management Discussion. He had not had sight of the application paperwork with the exception of the letter intimating the date of the Case Management Discussion. Mr Knox explained that the Respondent had become unemployed and had only recently applied for universal credit. For reasons unbeknownst to him the housing element wasn't put in place. Mr Knox has now requested that the Respondent provide him with his universal credit journal to check the position regarding payments and he has referred the Respondent to a financial advisor. On that basis Mr Knox was seeking a postponement of the Case Management Discussion to clarify the Respondent's financial position. He advised that the Respondent has severe learning difficulties and various mental health problems.
- 9 In response to questions from the Legal Member Mr Knox advised that he was not in a position to put forward an offer on behalf of the Respondent at this

stage. He required feedback from the financial advisor prior to discussing further with the Respondent. He hoped that this could be resolved by the date of the next Case Management Discussion, if the Tribunal were minded to agree an adjournment.

- 10 Having heard from the parties the Legal Member determined to postpone the Case Management Discussion for a short period of time for the Respondent to obtain financial advice, to clarify the position regarding his housing benefit and to put forward a payment proposal. The Legal Member noted the Respondent's learning difficulties and considered this would be a reasonable and proportionate approach. She further noted that the Applicant is currently receiving payments to the rent account, albeit there is a shortfall between the rent and housing benefit. The Case Management Discussion was therefore postponed to 18 March 2021 at 10am

### **The Second Case Management Discussion**

- 11 The Second Case Management Discussion took place on 18 March 2021. Ms Sadiq appeared again on behalf of the Applicant and Mr Knox appeared on behalf of the Respondent.
- 12 Mr Know explained that he was regrettably unable to provide much of an update on the Respondent's financial position. He was aware that the Respondent had met with a financial adviser but he had been unable to find out the outcome of those discussions. He advised that he had sought to contact the Respondent by telephone. He also noted that there had been issues with the IT system at his firm which may have caused the Respondent difficulty in getting in touch by email. He pointed out again that the Respondent suffered from mental health difficulties and he asked for a further continuation to allow his firm time to contact the Respondent and take further instructions.
- 13 Ms Sadiq advised that the Respondent sought payment of the amended sum of £4200.09 plus interest at the rate of 8 per cent per annum from the date of decision until payment. She confirmed that there had been no communication from Mr Knox nor the Respondent since the last Case Management Discussion and no medical evidence had been put forward to explain the extent of the Respondent's mental health difficulties.

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

- 14 The parties entered into a Tenancy Agreement which commenced on 25 February 2019.
- 15 In terms of the said Tenancy Agreement the Respondent had a contractual obligation to pay rent of £395 per month.

- 16 The Respondent defaulted on his obligation to pay rent in April 2019. Payments since that date have been sporadic.
- 17 As at the 18 March 2021 arrears in the sum of £4200.09 are outstanding.
- 18 Despite repeated requests the Respondent has refused or delayed in making payment of the sum owed.

### **Reasons for Decision**

- 19 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 substantive issues in dispute and the Tribunal therefore concluded that a hearing was not required in the matter.
- 20 Based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £4200.09. The Tribunal was further satisfied that interest on the sum due at the rate of 8% per annum from the date of decision until the date of payment was reasonable, being the current judicial rate. The Tribunal did have sympathy for the Respondent's position and noted his mental health difficulties however the Tribunal was cognisant that an opportunity had been afforded to the Respondent to seek assistance to resolve the matter by way of a postponement of the first Case Management Discussion. The Respondent had the benefit of support from both Mr Knox and a financial adviser but despite this had failed to put forward any form of payment proposal to the Applicant for consideration. The Tribunal had to have regard to the Applicant's position, in particular the significant level of debt owed and did not consider it reasonable nor proportionate to delay the matter any further.
- 21 On that basis the Tribunal made an order in the sum of £4200.09 plus interest at the rate of 8% per annum from the date of decision until payment 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.**



Legal Member/Chair



18 March 2021

Date