



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 arising from Section 1 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/21/0027**

**Re: Property at 2 Slockavullin, Kilmartin, Lochgilphead, PA31 8QG (“the Property”)**

**Parties:**

**Mr Peter McLardy, Herons Cottage, Adfern, Lochgilphead, Argyle, PA31 8QN (“the Applicant”)**

**Mr Kris Stewart, 2 Slockavullin, Kilmartin, Lochgilphead, PA31 8QG (“the Respondent”)**

**Tribunal Members:**

**Susan Christie (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order be granted for payment by the Respondent to the Applicant in the sum of £3,750 with interest at 2% per annum from the date of the Decision until payment in full.**

**Background**

- 1 The Application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) was made, received by the Tribunal on 6 January 2021.
- 2 A Notice of Acceptance is dated 11 February 2021.
- 3 The Application seeks a payment Order for unpaid rent due under a Private Residential Tenancy.
- 4 A written amendment of the Application to increase the sum sought to £4725 was received around 8 March 2021 then a further written amendment was requested on 22 March 2021, seeking to reduce the sum sought, after

considering a further rent payment due but deducting payments made by the Respondent, to £3,750. Those were also intimated on the Respondent. Interest is sought in addition.

### **The Case Management Discussion**

- 5 A Case Management Discussion (CMD) took place today by conference call. The Applicant participated and was represented by Mr Kemp, solicitor, with an observer Mr Buchan of the same firm.
- 6 The Respondent did not participate. A Certificate of Service of the paperwork on the Respondent by Sheriff Officer shows the service being made on 23 February 2021 by letterbox. The Tribunal was satisfied that proper intimation had been made and proceeded with the CMD in his absence, the procedure having been fair.
- 7 The paperwork submitted along with the Application was examined and discussed alongside the associated application.
- 8 The Applicant is the registered owner of the Property and landlord. It is more correctly called 2 Top Terrace, Slockavullin, Kilmartin, Lochgilphead, PA31 8QG and a typographical error in the Private Residential Tenancy referred to it as number 1, when it is number 2 and sometimes referred to as the Property address as above. All Notices, e mails and rent statements refer to the correct address number 2.
- 9 A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent on or around 11 December 2017, with a start date of 12 December 2017.
- 10 The rent is £450 per calendar month payable in advance on the 12<sup>th</sup> of the month by direct debit.
- 11 A deposit of £450 was taken.
- 12 The rent account statements produced were considered and the most recent one was accepted as received by the Tribunal. The Applicant seeks an order for payment in this application for unpaid rent due to be paid up to and including 12 March 2021, less the payments made.
- 13 The total sum due and owing is £6000. However an order for payment was made we are told by the FTT on 17 March 2020 for part of the rent arrears at £2,250 under CV/19/4070. Accordingly the balance sought is £3,750.
- 14 From January 2020 to 12 March 2021 rent was due of £6750 less total payments received of £3000, which brings out the same balance due.
- 15 No further payments have been received.
- 16 The Applicant sought interest from the date of the decision until payment at 4%. There was no contractual rate of interest. Accordingly, the rate to be determined by the Tribunal.

### **Findings in Fact**

- I. A Private Residential Tenancy (PRT) was entered into between the Parties on or around 11 December 2017, with a start date of 12 December 2017.
- II. The rent is £450 per calendar month payable in advance.

- III. From January 2020 to 12 March 2021 rent was due of £6750 less total payments received of £3000, which brings out balance due in this application of £3,750.
- IV. The Respondent being in arrears of rent for the period up to and including that due on 12 March 2021, a payment Order is granted for £3,750.

### **Reasons for Decision & Decision**

The Tribunal was satisfied a Private Residential Tenancy (PRT) was entered into between the Applicant over the Property with a rent of £450 per calendar month payable in advance on the 12<sup>th</sup> of the month by direct debit. A deposit was taken of £450 as per the PRTA. The Applicant seeks an order for payment in this application for unpaid rent due to be paid up to and including 12 March 2021, less the payments made by the Respondent. This application relates to rent due and covers the period January 2020 to 12 March 2021.

As disclosed in the rent statement, the total arrears are due at a higher figure, but the Tribunal was told a previous order had been made by the FTT, as yet not paid by the Respondent. The Tribunal was satisfied an order should be made today.

The Applicant sought interest from the date of the decision until payment at a rate of 4%. The actual rate to be determined by the Tribunal. Given that the base rate is currently very low, the Tribunal considered 2% to be an appropriate rate, in the absence of any paperwork being produced, having regard to the potential use value of the money currently. No issue was taken with this approach.

### **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.**

Susan Christie

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**Legal Member/Chair**

**24 March 2021**

**Date**