



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)  
Act 2014**

**Chamber Ref: FTS/HPC/CV/21/0803**

**Re: Property at 8 Newburgh Place, Bridge of Don, Aberdeen, AB22 8SW (“the  
Property”)**

**Parties:**

**Mr Ian Lindsay, 21 Craiglea Gardens, Craigton Road, Aberdeen, AB15 7XW (“the  
Applicant”)**

**Ms Brenda Start, 8 Newburgh Place, Bridge of Don, Aberdeen, AB22 8SW (“the  
Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

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

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of SEVEN THOUSAND FOUR HUNDRED AND TEN POUNDS (£7410) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

**Background**

1. This is an application dated 5 March 2021 made by the Applicant’s daughter on his behalf for an order for payment of rent arrears of £7555 under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. A Case Management Discussion (“CMD”) took place on 7 June 2021. Mrs Masson, the Applicant’s daughter appeared on behalf of the Applicant and

Mrs Start appeared on her own behalf. Although the Respondent had lodged a time to pay application to clear the arrears by £70 per month, it was clear that she may not be able to afford to do that as she was not paying rent. The Respondent advised she had paid £350 in April and May 2021. Mrs Masson was sympathetic to the Respondent's position and appreciated that she had been on furlough and had had some financial difficulties. She was keen to reach an agreement with the Respondent to clear the arrears. The Respondent also confirmed she was willing to work towards a compromise and stated that even if she left the Property and found somewhere smaller to live her intention was to clear the arrears. In the circumstances, the Tribunal adjourned the Case Management Discussion for negotiations to take place between the parties and for an up to date rent statement to be lodged which would show the rent had been reduced from £695 to £550 as agreed between parties. Reference is made to the Note from the CMD.

### **Continued Case Management Discussion**

3. The Tribunal proceeded with a continued Case Management Discussion on 29 July 2021 by way of teleconference. The Applicant was represented by his daughter, Mrs Sandra Masson. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the continued CMD in her absence.
4. The Tribunal had before it the Private Rented Tenancy Agreement between the parties dated 30 October 2018, a Certificate of Non – Resolution from Safe Deposits Scotland, a rent statement showing arrears of £7555, a Time to Pay application by the Respondent and the response from the Applicant to the Time to Pay application.
5. Mrs Masson explained that since the last CMD she had asked the letting agents Martin and Company to produce a rent statement showing the rent had been reduced from £695 to £550 from March 2020, but they had refused to do so as they had not had confirmation in writing from both parties that that was an agreed position. Mrs Masson explained that the Respondent had made a payment of £350 on 25 March 2021 and £400 on 8 June 2021. She had contacted Mrs Start to make an agreement, but that Mrs Start was unwilling to reach an agreement. Mrs Masson had worked out that the arrears were £7410 to the 30 June 2021. That took account the reduction of rent to £550 and the two payments made in March and June 2021. She accordingly asked for a payment order to be made for £7410.

### **Findings in Fact**

6. The Respondent agreed by way of Clause 8 of a Private Rented Tenancy Agreement in relation to the Property that she would pay a monthly rent of £695 to the Applicant. Parties agreed in March 2020 that due to the COVID-

19 pandemic the monthly rent be reduced to £550 per month. The arrears were £1435 at the end of March 2020.

7. Since then the Respondent has paid £550 on 16 April 2020, £480 on 18 May 2020, £350 on 18 December 2020, £350 on 25 March 2021 and £400 on 8 June 2021.
8. The Applicant referred the matter to the Dispute Resolution Service at Safe Deposit Scotland. The Respondent did not engage with that service. Safe Deposit Scotland issued a Certificate of Non – Resolution which stated they had tried to contact the Respondent about the arrears by both email and phone from 5-26 February 2021, but had been unable to get any response from her.
9. The Respondent has fallen into arrears of rent and is accordingly in breach of Clause 8 of the tenancy agreement and the subsequent agreement that rent be £550 per month. She last made a payment on 8 June 2021 of £400. She has made no further payments to rent for the Property since then. The arrears are £7410 to 30 June 2021.

### **Reasons for Decision**

10. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by the Applicant's representative and in particular the steps she had taken to try to resolve matters with the Respondent since the CMD. The Tribunal accepted the oral submissions of Mrs Masson in relation to the amount of arrears and the payments made since the parties had agreed to the rental reduction. The Tribunal was of the opinion that it was telling the Respondent had not appeared at the continued CMD despite her position at the CMD that she wanted to resolve matters. The Tribunal noted the Certificate of Non Compliance with Safe Deposit Scotland. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of these documents, together with Mrs Masson's submissions that the order for payment in favour of the Applicant be granted.

### **Decision**

11. The Tribunal granted an order for payment of £ 7410.

### **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.

# S Evans

29 July 2021

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Legal Member

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Date