

**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/21/2857

Re: Property at 9 Hollybush Lane, Crathes, Banchory, AB31 5JS (“the Property”)

Parties:

**LAR Housing Trust, F3 Buchan House, Carnegie Campus, Enterprise Way,
Dunfermline, Fife, KY11 8PL (“the Applicant”)**

**Ms Savannah Sheriffs, 9 Hollybush Lane, Crathes, Banchory, AB31 5JS (“the
Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to make an order for payment in the sum of Seven
thousand and fifty nine pounds (£7059) Sterling.**

Background

- 1 By application to the Tribunal the Applicant sought an order for payment against the Respondent in respect of outstanding rent arrears in the sum of £6993. In support of the application the Applicant provided copy 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 the 28 January 2022, to take place by teleconference due to the restrictions imposed by the Covid-19 pandemic. 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. The Respondent was also given the opportunity to make

written representations in response to the application however nothing was received from her in that regard.

- 3 On 27 January 2022 the Applicant emailed the Tribunal with an updated rent statement showing arrears of £7059 as at 10 January 2022.

The Case Management Discussion

- 4 The Case Management Discussion took place by teleconference on 28 January 2022. Ms Nicola Caldwell appeared on behalf of the Applicant. There was no appearance by, or on behalf of, the Respondent.
- 5 Ms Caldwell addressed the Tribunal on the order sought. She advised that arrears had increased to the sum of £7059 and the Applicant sought an order for that amount. She also requested the Tribunal make an award of interest, in terms of its discretion under Rule 41A of the First-tier Tribunal (Housing and Property Chamber) Rules of Procedure 2017 as amended.

Findings in Fact and Law

- 6 The Applicant entered into a tenancy agreement with the Respondent which commenced on 15th April 2019.
- 7 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 8 In terms of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £783 per month.
- 9 As at 28 January 2022, rent arrears in the sum of £7059 are outstanding.
- 10 Despite repeated requests the Respondent has refused or delayed to make payment of the rent due.

Reasons for Decision

- 11 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. The Respondent had been given the opportunity to take part in the proceedings but had chosen not to do so. On that basis the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no facts in dispute.

- 12 The Tribunal accepted that there were rent arrears outstanding in the sum of £7059 and that it was able to make an order for that sum on the basis that the application sought all sums due as at the date of the case management discussion. There was nothing before the Tribunal to contradict the evidence put forward by the Applicant in that respect. However the Tribunal declined on this occasion to use its discretion to make an award of interest. The Tribunal concluded that the Respondent had not been given sufficient notice of what was being sought by the Applicant in this regard, as the application simply stated “interest from the date of decision”. The Tribunal would have expected to see further specification as to what level of interest was sought by the Applicant to justify the award.
- 13 The Tribunal therefore determined to make an order in the sum of £7059. 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.

Ruth O'Hare

Legal Member: Ruth O'Hare

Date: 28th January 2022