



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/20/2332**

**Re: Property at 58 Ivanhoe Drive, GLENROTHES, KY6 2ND (“the Property”)**

**Parties:**

**Mr Kevin Masson, 11 Milnwood Court, GLENROTHES, KY6 2PD (“the Applicant”)**

**Ms Erin Storrar, 58 Ivanhoe Drive, GLENROTHES, KY6 2ND (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £4550.00.**

**Background**

1. By application dated 4 November 2020 the Applicant applied to the Tribunal for an order for payment by the Respondent in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant provided the Tribunal with copy text messages in support of his application and subsequently provided further information as to how the rent arrears had been calculated.
2. By Notice of Acceptance dated 27 November 2020 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.
3. Intimation of the Case Management Discussion was given to the Applicant by post and served on the Respondent by Sheriff Officers on 8 December 2020.
4. By email dated 8 January the Applicant submitted written representations to the Tribunal seeking to increase the sum claimed and to introduce a new issue.

## **The Case Management Discussion**

5. A Case Management Discussion was held by teleconference on 13 January 2021. The Applicant attended personally. The Respondent did not attend and was not represented. The Tribunal on being satisfied that proper intimation of the Case Management Discussion had been given to the Respondent and in accordance with Regulation 29 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”) determined to proceed in the absence of the Respondent.
6. The Applicant advised the Tribunal that following an order for the eviction of the Respondent being granted the Respondent had vacated the property. He did not know the exact date as the Respondent had not returned the keys to the property. He explained that he had to break into the property and fit new locks. The Applicant went on to say that he wished to claim an additional three months’ rent amounting to £1350.00 together with £600.00 for the cost of clearing the property following the Respondent leaving. The Applicant referred the Tribunal to the photographs that he had submitted.
7. The Tribunal queried if the Applicant had a current address for the Respondent and the Applicant said that he believed the Respondent was staying at a hostel in Methil but he did not have an address, The Tribunal explained that before the sum claimed could be amended intimation of the amendment would require to be given to the Respondent in respect of the additional rent claimed in terms of Rule 14A of the 2017 rules and the Applicant would also have to obtain the Tribunal’s consent to the introduction of the new issue in respect of the house clearance costs and if consent was granted the amended application would require to be intimated to the Respondent. The Tribunal explained that the Applicant would require to provide the Tribunal with a current address for the Respondent. If he was unable to do so he would have to instruct tracing agents and if they could not trace the Respondent the Applicant could apply to the Tribunal for intimation by advertisement on the Housing and Property Chamber website.
8. The Applicant then indicated that he would not seek the increased sum at this time but would consider making a further application at a later date and asked the Tribunal to grant an order for payment in the original sum sought of £4550.00. The Applicant confirmed there had never been a written tenancy agreement but referred the Tribunal to the text messages between the parties that confirmed an agreement to pay rent at the rate of £450.00 per month. The Applicant also confirmed that the Respondent had paid such rent as she had in cash. He again referred the Tribunal to the texts and to the schedule that he submitted that showed the sum due by the Respondent at 28 October amounting to £4550.00.

## **Findings in Fact**

9. The parties entered into a Private Rented Tenancy that commenced on 28 July 2019 and ended on 13 December 2020.
10. The rent was £450.00 per month.
11. The rent due by the Respondent to the Applicant as at 28 October 2020 amounted to £4550.00.

### **Reasons for Decision**

12. The Tribunal was satisfied from the documentary evidence and the oral submissions that although there was no written tenancy agreement there were sufficient text messages between the parties to confirm that there was a tenancy constituted and that the rent was £450.00 per month. The Tribunal was also satisfied that the Applicant had provided sufficient information to vouch the sum said to be due by the Respondent in respect of unpaid rent and the Respondent had not challenged this figure despite being given an opportunity to do so.
13. The Tribunal was satisfied it had sufficient information before it to make a decision without a hearing and was prepared to grant an order for the sum sought. As the Applicant had withdrawn the proposed amendment to increase the sum claimed the Tribunal did not require to make a decision on the proposed amendment.

### **Decision**

14. The Tribunal finds the Respondent entitled to an order for payment by the Respondent to the Applicant in the sum of £4550.00

### **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.**

**Graham Harding  
Legal Member/Chair**

**13 January 2021  
Date**