



**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/22/0780**

**Re: Property at Flat 15 Westwood House, 498 Gorgie Road, Edinburgh, EH11  
3DZ (“the Property”)**

**Parties:**

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

**Mr Jae Duncan, Flat 15 Westwood House, 498 Gorgie Road, Edinburgh, EH11  
3DZ (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and David Fotheringham (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 Eight  
thousand eight hundred and sixty one pounds and sixty four pence (£8,861.64)  
Sterling with interest at the rate of three per cent per annum from the date of  
decision until payment**

**Background**

- 1 By application dated 3 February 2022, the Applicant sought an order for payment in the sum of £6,680.04 against the Respondent. In support of the application the Applicant provided:-
  - (i) Private Residential Tenancy Agreement between the parties dated 9 December 2019;

- (ii) Notice to Leave dated 8 July 2021 stating that proceedings for possession will commence no earlier than 11<sup>th</sup> January 2022 and citing ground 12, together with proof of service on the Respondent by Sheriff Officers;
  - (iii) Notice under section 11 of the Homelessness (Scotland) Act 2003 to City of Edinburgh Council together with proof of service by email to the Council;
  - (iv) Rent Statement showing arrears of £6,680.04 as at 1 February 2022; and
  - (v) Copy letters from the Applicant to the Respondent in compliance with the pre-action requirements.
- 2 By Notice of Acceptance of Application dated 4 April 2022 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 15 June 2022 to take place by teleconference. 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.
- 3 By email dated 10 May 2022 the Applicant requested an amendment of the sum claimed from £6,680.04 to £8,861.64 in terms of Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber Procedural Rules (“the Procedural Rules”). The request was supported by an updated rent statement and a copy was intimated to the Respondent.

### **Case Management Discussion**

- 4 The Case Management Discussion took place on 15 June 2022. Ms Donnelly of TC Young Solicitors represented the Applicant. The Respondent was not present.
- 5 The Tribunal was aware that the application paperwork had been served upon the Respondent by Sheriff Officers, with details for joining the case conference. Accordingly the Tribunal was satisfied that the notification requirements had been complied with and determined to proceed with the Case Management Discussion in his absence.
- 6 As a preliminary point the Tribunal noted that the Applicant had sought permission to increase the sum claimed to £8,861.64. The request had been made timeously in accordance with the requirements of the Procedural Rules and had been intimated upon the Respondent. On that basis, and in the absence of any objection from the Respondent, the Tribunal determined to allow the amendment.
- 7 Ms Donnelly confirmed she sought an order in the increased sum of £8,861.64 together with interest at the rate of 3% per annum. The Applicant had made efforts to engage with the Respondent in order to set up a payment plan, by sending

monthly letters to him, however he had failed to respond. The arrears had increased since the request for amendment as a result of the Respondent's lack of payments however Ms Donnelly accepted she was restricted to the sum claimed.

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

- 8 The parties entered into a Private Residential Tenancy Agreement dated 69 December 2019.
- 9 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 10 In terms of Clause 7 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £720 per calendar month.
- 11 As at 1<sup>st</sup> May 2022 the sum of £8,861.64 in outstanding rent is due to the Applicant by the Respondent in terms of Clause 7 of the said Tenancy Agreement.
- 12 Despite repeated requests the Respondent has refused or delayed to make payment of the sum due.

### **Reasons for Decision**

- 13 The Tribunal was satisfied that it could make a determination of the application at the Case Management Discussion and that to do so would not be detrimental to the parties. The Respondent had received proper notification of the application paperwork and had not taken the opportunity to participate in the proceedings.
- 14 Based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £8,861.64. The Tribunal accepted the evidence of the Applicant that the Respondent had a contractual obligation to make payment of rent at the rate of £720 per month. There was nothing before the Tribunal to contradict the position put forward by the Applicant.
- 15 The Tribunal therefore made an order for payment against the Respondent in the sum of £8,861.64 together with interest at the rate of 3% per annum from the date of decision until payment.

### **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

15 June 2022

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**Legal Member/Chair**

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**Date**