



**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/20/2375**

**Re: Property at 42 McPherson Crescent, Chapelhall, North Lanarkshire, ML6 8XL  
("the Property")**

**Parties:**

**Mr Lendrick Gillies, C/o Gilson Gray Property Services, 29 Rutland Square,  
Edinburgh, EH1 2BW ("the Applicant")**

**Mr William Durnion, 42 McPherson Crescent, Chapelhall, North Lanarkshire,  
ML6 8XL ("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 in the sum of ££119.16 together with interest at the rate of 8%  
per annum from the date of the decision**

**Background**

1. By application dated 12 November 2020 the Applicant's representatives Gilson Gray, Solicitors, Edinburgh applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent's tenancy of the property. The Applicant's representatives submitted a copy of the tenancy agreement, and schedule of rent arrears in support of the application.
2. By Notice of Acceptance dated 23 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 sent to the Applicant's representatives by post on 25 November 2020 and was served on the Respondent by Sheriff Officers on 27 November 2020.
4. By emails dated 15 and 22 December 2020 the Applicant's representatives sought to amend the sum claimed.

### **The Case Management Discussion**

5. A Case Management Discussion was held by teleconference on 7 January 2021. The Applicant was represented by Mr Fraser Crombie of the Applicant's representatives. The Respondent did not attend. The Tribunal being satisfied that the Respondent had been given intimation of the proceedings determined to proceed in his absence.
6. The Tribunal queried whether intimation of the Applicant's amendments to the sum claimed had been properly intimated. Mr Crombie referred the Tribunal to the Recorded Delivery proof of posting receipts submitted with the applications to amend. The Tribunal pointed out these did not prove that the Respondent had received the documents. The Tribunal checked the tracking numbers of both amendments on the Royal Mail website and noted that the amendment of 22 December was being returned as the Respondent was no longer at the property and the earlier amendment had been undelivered and returned to sender on 30 December 2020. The Tribunal advised Mr Crombie that in the circumstances it was not satisfied the Respondent had been given proper notice of the amendments and therefore would not be prepared to grant any order for an increased sum at this stage. Mr Crombie sought a short adjournment to take instructions and this was granted.
7. On reconvening Mr Crombie advised the Tribunal that the Applicant was no longer seeking the increased sums and asked the Tribunal to grant an order for the sum claimed and referred the Tribunal to the tenancy agreement and rent schedule and confirmed the sum due by the Respondent at 1 November 2020 amounted to £3119.16.
8. Mr Crombie also asked the Tribunal to make an award of interest on the sum claimed at the rate of 8% per annum and referred the Tribunal to Clause 8 paragraph 6 of the tenancy agreement which provided for contractual interest of 8% per annum on late payments of rent from the date due until payment.

### **Findings in Fact**

9. The parties entered into a Private Residential Tenancy Agreement that commenced on 1 August 2018 at a rent of £350.00 per calendar month.
10. As at 1 November 2020 the Respondent was due rent amounting to £3119.16.

11. The tenancy agreement provided that interest on late payment of rent could be charged by the Applicant from the date it became due at the rate of 8% per annum.

### **Reasons for Decision**

12. The Tribunal was satisfied from the written representations and oral submissions that the parties had entered into a tenancy agreement at a monthly rent of £350.00 and that as at 1 November 2020 the Respondent was due to pay the Applicant £3119.16.
13. The Tribunal was also satisfied that there was a contractual agreement that interest on late payments of rent could attract interest at the rate of 8% per annum. Rule 41A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may include interest when making an order for payment at the rate either stated in the tenancy agreement or as ordered by the Tribunal. Given that the parties had agreed that interest could be charged at 8% the Tribunal determined that the order should include interest at this rate.

### **Decision**

14. The Tribunal being satisfied that it had sufficient information before it to make a decision and having taken account of the written representations and oral submissions found the Applicant entitled to an order for payment by the Respondent in the sum of £3119.16 together with interest at the rate of 8% per annum from the date of the decision.

### **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**

**7 January 2021  
Date**