



**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/19/3522

**Re: Property at Flat A Westcroft, Bruce Street, Lochmaben, Lockerbie, DG11
1PB (“the Property”)**

Parties:

**Novantie Ltd, Grierson House, The Crichton, Bankend Road, Dumfries, DG1
4ZS (“the Applicant”)**

**Mr Mark Duff, Flat A Westcroft, Bruce Street, Lochmaben, Lockerbie, DG11
1PB (“the Respondent”)**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £7,220, with interest at 2% per annum from the date of the Tribunal’s Decision until payment.

Background

By application, received by the Tribunal on 4 November 2019, the Applicant sought an Order for Payment in respect of rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £2,709.04.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 11 October 2018 at a rent of £462.54 per month, a Notice dated 28 June 2019, advising the Respondent of the Applicant’s intention to increase the rent from 1 October 2019 to £473.64 per month, and a Rent Statement showing arrears as at 1 October 2019 of £2,709.04.

On 6 January 2020, the Tribunal received from the Respondent an application for a Time to Pay Direction, in which the Respondent admitted the claim and offered to pay off the arrears at £50 per month. On 11 January 2020, the Applicant intimated to

the Tribunal willingness to accept the proposal contained within the Time to Pay Direction application.

A Case Management Discussion was held on 14 January 2020. The Applicant advised the Tribunal that the Respondent had made payment towards the arrears in November and December 2019 and in January 2020 and, in these circumstances requested adjournment of consideration of the application for a period of six months. The Respondent was present and was in agreement with that request, which was then granted by the Tribunal.

Case Management Discussion

The adjourned Case Management Discussion was held by way of a telephone conference call on the afternoon of 23 September 2020. The Respondent was not present or represented. At the request of the Applicant, the Tribunal granted one further continuation to enable enquiries to be made about the Respondent's health and as to whether there had been a delay in payment of Universal Credit.

The continued Case Management Discussion was held by way of a telephone conference call on the morning of 3 December 2020. The Applicant was represented by Mr David Adams, Senior Solicitor, Wheatley Group, of which Dumfries and Galloway Housing Partnership ("DGHP"), the Applicant's parent company, are part. The Respondent did not participate and was not represented in the Case Management Discussion.

The Applicant's representative told the Tribunal that no payments of rent had been received since February 2020. He had emailed the Tribunal on 18 November 2020 with an updated Rent Statement showing arrears at that date of £6,747.36 and had advised in that email that, if the rent due on 1 December 2020 had not been paid by the time of the adjourned Case Management Discussion, the arrears would increase to £7,220. He advised the Tribunal that no payment had been received since the Rent Statement of 18 November 2020 and asked the Tribunal to issue an Order for payment of the sum of £7,220, with interest at 2% per annum until payment. He confirmed that the Applicant had managed to make contact with the Respondent, who had advised that he was receiving Universal Credit.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations") provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision.

The Tribunal was satisfied that it had before it all the information it required and that it would decide the application without a Hearing.

The Tribunal noted that an updated Rent Statement had been provided on 18 November 2020 and that, in the covering email, the Applicant had stated their wish to increase this to £7,220, in the event that the rent due two days before the continued Case Management Discussion was not paid. The Tribunal was satisfied that the Respondent had received notice on 18 November that the arrears were £6,746.36 and would be £7,220 at the date of the continued Case Management Discussion if no payment was made on 1 December 2020. The Tribunal was satisfied that the arrears stood at £7,220.

In their email of 18 November 2020, the Applicant had sought interest on the principal sum at 2% per annum from the date of the Tribunal's Decision until payment in terms of Rule 41A of the 2017 Regulations. The Tribunal regarded this

request as reasonable in all the circumstances of the case, no rent at all having been paid since February 2020, despite the fact that the Respondent was in receipt of Universal Credit.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £7,220, with interest at 2% per annum from the date of the Tribunal's 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.

George Clark

Legal Member/Chair

Date: 3 December 2020