



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

**Chamber Ref: FTS/HPC/CV/23/0975**

**Re: Property at Flat 4 3 Bruce Street, Clydebank, G81 1TT (“the Property”)**

**Parties:**

**Mrs Leanne Tivendale, 16 Braehead Crescent, Clydebank, G81 6PF (“the Applicant”)**

**Mr Graeme Henderson, Flat 4 3 Bruce Street, Clydebank, G81 1TT (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Elizabeth Dickson (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £7,050 with interest at the rate of 4% per annum from the date of this decision until payment.**

**Background**

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the Respondent.
2. By decision dated 13 April 2023, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 18 April 2023. The Tribunal intimated the application to the parties by letter of 18 May 2023 and advised them of the date, time and conference call details of

today's CMD. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 8 June 2023. No written representations were received from the Respondent.

4. On 8 June 2023, the Tribunal received an email from the Applicant's representative, attaching an application to amend the sum sued for. The application was accompanied by an updated rent statement and had been intimated to the Respondent.

### **The case management discussion**

5. The CMD took place by conference call. The Applicant was represented by Mr Jarvie. The Respondent did not join the conference call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/EV/23/0974. The Applicant's representative explained that the last payment of rent was made in February 2022 and arrears of rent have continued to increase. The Applicant's representative moved for an order for payment in the sum of £7,050.

### **Findings in Fact**

6. The parties entered into a private residential tenancy which commenced 1 May 2018.
7. The contractual monthly rent is £425, payable in advance.
8. The Respondent has incurred rent arrears of £7,050.

### **Reason for Decision**

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent failed to lodge written representations and failed to participate in the CMD. The rent statement lodged discloses substantial arrears of rent due by the Respondent. There was nothing to suggest that the Respondent disputed the accuracy of the rent statement. Tribunal was satisfied that the Respondent has incurred rent arrears amounting to £7,050.
10. The Tribunal observed that the debt due by the Respondent has been outstanding for a significant period of time. It was noted that the tenancy agreement did not make provision for interest on late payment of rent. The Tribunal exercised its discretion in terms of rule 41A and awarded interest on the sum due at the rate of 4% per annum from today's date 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.



Legal Member/Chair

22 June 2023  
Date