



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

**Chamber Ref: FTS/HPC/CV/20/0479**

**Property at 26A Stevenson Street, Kilmarnock, KA1 2RG (“the Property”)**

**Parties:**

**Dr Andrew Smith, c/o Key-Lets, 12 Parkhouse Street, Ayr, KA7 2HH (“the Applicant”)**

**Mr Scott Jefferies, Address Unknown (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

**Decision in absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £1678 should be granted against the Respondent in favour of the Applicant.**

**Background**

1. By application dated 11 February 2020 the Applicant seeks a payment order against the Respondent in relation to rent arrears. A copy tenancy agreement and rent statement showing a balance owing of £1930 were lodged in support of the application.
2. A copy of the application and supporting documents were served on the Respondents by Sheriff Officer on 10 March 2020. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 9 April 2020 and that they were required to attend. The CMD was postponed as a result of Government restrictions due to COVID 19. On 16 June 2020, the parties were advised that the CMD would now take place by conference call on 17 July 2020 at 2pm. The Respondent was notified by recorded delivery letter sent to the property. The recorded delivery letter was not returned to the Tribunal by Royal Mail, but a track and trace established that the letter had not been delivered to

the Respondent.

3. On 16 July 2020, the Applicant lodged an updated rent statement showing a balance owing of £2118. He also submitted copies of emails with the Respondent which indicated that the Respondent had vacated the property on 28 February 2020. The application called for a CMD at 2 pm on 17 July 2020. Neither party participated and neither were represented. The Legal Member determined that the CMD should be adjourned to a later date to allow for notification to be made to both parties and to establish whether the Applicant wished to continue with the application. The Applicant's representative contacted the Tribunal to advise that he had not been able to attend the CMD as he had been involved in a meeting. In the Note issued following the CMD the Applicant was directed to provide a current address for the Respondent. The Applicant notified the Tribunal that he did not have an address for the Respondent. He was directed to seek service by advertisement and to provide evidence of attempts to obtain an address, such as a trace report from a tracing agent or Sheriff Officer.
4. On 13 November 2020, the Applicant submitted a negative trace report from Stirling Park Sheriff Officers. Service by advertisement was approved. Parties were advised that a CMD would take place by conference call on 7 January 2021 at 10am. The Respondent's notification letter was served by advertisement on the Tribunal website between 19 November 2020 and 7 January 2021.
5. The application called for a CMD by telephone conference call at 10am on 7 January 2021. The Applicant was represented by Mr Williamson. The Respondent did not participate and was not represented.

### **Case Management Discussion**

6. Mr Williamson referred the Legal Member to the updated rent statement and emails lodged by him on 16 July 2020. He advised that the Respondent had notified him on 28 February 2020 that he had moved out of the property. He said he would return the keys but failed to do so. The property was recovered on 13 March 2020. The updated rent statement shows the sum outstanding on 13 March 2020 of £2118. The Applicant has been repaid the whole tenancy deposit of £440. This has reduced the arrears to £1678. Mr Williamson confirmed that this sum remains outstanding and that there has been no contact with, or payments received from the Respondent. He confirmed that the Applicant seeks a payment order for the reduced sum of £1678.

### **Findings in Fact**

7. The Applicant is the owner and landlord of the property.

8. The Respondent was the tenant of the property in terms of a private residential tenancy agreement.
9. The Respondent vacated the property on or about 28 February 2020 but did not return the keys. The Applicant recovered possession of the property on 13 March 2020.
10. In terms of the tenancy agreement the Respondent was due to pay rent at the rate of £440 per calendar month.
11. The sum of £1678 is due to the Applicant in unpaid rent.

### **Reasons for Decision**

12. From the documents lodged in support of the application and the information provided at the CMD, the Legal Member is satisfied that the Respondent entered into a tenancy agreement with the Applicant and undertook to pay rent at the rate of £440 per month. The tenancy ended on 13 March 2020, when the Applicant recovered possession of the property. The Respondent owed the sum of £2118 in unpaid rent at the end of the tenancy. The Applicant recovered the Respondent's tenancy deposit of £440 and applied this to the rent arrears. This left a balance owing of £1678. The Respondent has made no payments toward the arrears and has not contacted the Applicant regarding repayment. The sum of £1678 remains outstanding and the Legal Member is satisfied that the Applicant is entitled to a payment order for this sum.
13. The Legal Member concludes that an order for payment should be granted against the Respondent.

### **Decision**

14. The Legal Member determines that an order for payment of the sum of £1678.00 should be granted against the Respondent.

### **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.**

**Josephine Bonnar, Legal Member**

**7 January 2021**

**Josephine Bonnar**

