

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**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/21/0828**

**Re: Property at 124 Curtis Avenue, Kings Park, Glasgow, G44 4NP (“the Property”)**

**Parties:**

**Mr Ross Martin, residing at 9 Kinmount Avenue, Glasgow, G44 4RR (“the Applicant”), and  
Bannatyne Kirkwood France & Co, Solicitors, 16 Royal Exchange Square, Glasgow, G1 3AG ( the Applicant’s Representative”) and**

**Ms Kelly O’Neil, residing at 124 Curtis Avenue, Kings Park, Glasgow, G44 4NP (“the Respondent”)**

**Tribunal Member:**

**G McWilliams- Legal Member**

**Decision in absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:**

### **Background**

1. This is an Application for a payment order, contained within papers lodged with on 6<sup>th</sup> April 2021, in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”).
2. In the Application, the Applicant sought payment of arrears in rental payments of £3780.99, in relation to the Property, from the Respondent, and provided

copies of the parties Private Residential Tenancy Agreement (“PRT”) and a Rent Statement.

3. The PRT had been correctly and validly prepared in terms of the provisions of The Private Housing (Tenancies) Act 2016 and the procedures set out in that Act had been correctly followed and applied.
4. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 23<sup>rd</sup> April 2021, and the Tribunal was provided with the Certificate of Intimation
5. The Applicant’s Representative intimated the Applicant’s request to amend the amount of the payment order sought to £4880.00, with interest, and lodged an up to date Rent Statement, on 10<sup>th</sup> May 2021.

### **Case Management Discussion on 25<sup>th</sup> May 2021**

6. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2pm on 25<sup>th</sup> May 2021. The Applicant’s Representative Ms E Matheson attended. The Respondent did not attend and was not represented. Ms Matheson stated that the Applicant sought a payment order in the amended sum claimed, of £4880.00, and interest. She submitted that interest at the rate of 8% per annum should be applied, as this was the contractual rate specified in Clause 37.6) of the parties’ PRT. Ms Matheson submitted that as the Respondent had been effectively served with all papers in respect of the Application for an order for payment, and had not lodged any representations with the Tribunal, nor attended at the CMD, the payment order sought should be granted.

### **Statement of Reasons for Decision**

7. Section 71 of The Private Housing (Tenancies) Act 2016 provides as follows:

- (1) In relation to civil proceedings arising from a private residential tenancy-
  - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
  - (b) a sheriff does not have competence or jurisdiction.
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-
  - (a) the prosecution of a criminal offence,
  - (b) any proceedings related to such a prosecution.

8. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rent against a tenant (such as the Respondent) in respect of a PRT such as this.

9. The Respondent had been validly served with all of the Application papers, and notified of the CMD, but had not lodged representations with the Tribunal, or attended the CMD to provide evidence, and/or make any submission, opposing the order sought. The Tribunal considered the terms of the PRT and the copy documentation provided by the Applicant, as well as the submission made by Ms Matheson today, and was satisfied that there was an outstanding balance of rent arrears due of £4880.00 and determined that it was reasonable to grant an order for payment by the Respondent to the Applicant in that amount. The Tribunal also determined that it was reasonable to apply interest to that amount at the rate of 8% per annum, as this was the contractual rate of interest, applicable to unpaid rent and other payments, agreed by the parties in Clause 37.6) of their PRT. The interest will run from the date of today's decision, in terms of Rule 41A of the 2017 Rules.

### **Decision**

10. Accordingly, the Tribunal made an order for payment of the sum of £4880.00 with interest at the rate of 8% per annum, from the date of this decision until payment is made.

### **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.**

**G.M.**

**G McWilliams**

**25<sup>th</sup> May 2021**

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**Legal Member**

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**Date**