



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)**

**Chamber Ref: FTS/HPC/CV/22/0141**

**Re: Property at 23 Sprotwell Terrace, Sauchie, Alloa, Clackmannanshire, FK10 3LB (“the Property”)**

**Parties:**

**Miss Siu Yi Madeline Yeung, 26 Wilson Drive, Hawick, Roxburghshire, TD9 8HP (“the Applicant”)**

**Mr Kieran Barclay, 23 Sprotwell Terrace, Sauchie, Alloa, Clackmannanshire, FK10 3LB (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Angus Lamont (Ordinary 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 by the Respondent in the sum of £5,585.16 should be made in favour of the Applicant.**

**Background**

1. By application received 18 January 2022, the Applicant sought a payment order against the Respondent in the sum of £5,585.16 in respect of rent arrears. Supporting documentation was submitted with the application, including a copy of the tenancy agreement and a rent statement.
2. The application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 15 March 2022. Notification of the application was then made to the Respondent and the date, time and arrangements for a Case Management Discussion (“CMD”) were

intimated to both parties, advising of the date by which any written representations should be lodged (27 April 2022). Said notification was served on the Respondent personally by Sheriff Officer on 7 April 2022. No representations were lodged by the Respondent.

## **Case Management Discussion**

1. A Case Management Discussion (“CMD”) took place before the Tribunal Members by telephone conference call on 23 May 2022 at 10am, attended by the Applicant only. The start of the CMD was delayed for 5 minutes to allow an opportunity for the Respondent to join late but he did not do so.
2. After introductions and introductory remarks, the Applicant was asked to address the application and confirmed that she was still seeking a payment order against the Respondent in respect of rent arrears. She advised that the Respondent remains in occupation and that the rent arrears have continued to rise, such that there are now arrears of over £8,000. The Legal Member explained to the Applicant that the Tribunal application seeks a payment order of £5,585.16 in respect of arrears and that there has been no formal amendment made to the application to increase the sum sought. Accordingly, the Legal Member indicated that the Tribunal can either consider the claim for £5,585.16 today or, alternatively continue the case to a further CMD to allow an amendment to the application and for that to be notified to the Respondent in order that the Respondent would have an opportunity to dispute that increased sum. The Applicant confirmed that she would just proceed on the basis of the figure sought in the original application.
3. The Applicant explained how the arrears had arisen, that the rent is £450 per month, that there were periods when payments were missed altogether and that, since August 2020, only partial payment of the rent each month has been made which she has received directly from the DWP. She receives £322.07 from the DWP every month (with the exception of January 2022 when she received no payment) and is still in receipt of that monthly sum. This leaves a shortfall in the rent of £127.93 every month. The Applicant confirmed that her letting agents, Martin & Co, dealt with the rent arrears situation with the Respondent as part of the property management services they provide to her. They are still her letting agents and she still pays them their monthly management fee. Martin & Co did not get any cooperation from the Respondent in relation to the rent arrears and no further payments were forthcoming. The Applicant herself did not have any direct contact with the Respondent regarding the rent arrears, although she advised that she had emailed him twice, once regarding a stain on a carpet and subsequently, to advise that she was having to consider putting the house on the market due to her own financial situation. She did not receive any response from the Respondent. She knows that the Respondent lost his employment previously, before the pandemic, and thinks he lost another job during the pandemic and presumes he is still unemployed as he is clearly in receipt of benefits.

4. Reference was made to the handwritten rent statement that the Applicant had submitted with her application and it was noted that this contains a breakdown on how the figure of £5,585.16 was calculated. There was some discussion regarding some discrepancies in the figures between the Statement of Account prepared by her letting agent and her own breakdown of the arrears, particularly with regard to the amount of arrears stated as owing as at July 2020, prior to the direct payments from DWP starting to be made to the Applicant direct. The Applicant explained that there had been some errors made by a former member of staff at the letting agents in the statement of accounts, that the Applicant had had to go through it all and calculate the accurate figure for the arrears and that it is her own figures contained in the Rent Statement which are correct and should be relied on. It was noted by the Tribunal that the letting agents appeared not to have included in their Statement of Account the rent payments due for the 5 month period March to July 2020 inclusive which would amount to £2,250 and that this figure exceeds the amount of the discrepancy referred to above. It was also noted that the letters from the letting agents to the Respondent which have also been lodged with the Tribunal do make reference to rental payments being due for the months March to July 2020. The Applicant confirmed that no further payments, either from the Respondent himself, nor from the DWP on his behalf, had been received, other than those shown in the various statements produced.

### **Findings in Fact**

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 21 June 2019.
3. The Respondent continues to occupy the Property.
4. The rent in respect of the tenancy is £450 per calendar month.
5. The rent was initially paid regularly by the Respondent to the Applicant's letting agent but there were then periods when payments were missed altogether and rent arrears accrued.
6. From August 2020 to date (apart from in January 2022), the Applicant has received direct payments from the DWP towards the Respondent's rent amounting to £322.07 per month.
7. There is a shortfall of £127.93 per month in the rent so arrears are continuing to accrue.
8. When the application was made to the Tribunal, the rent arrears amounted to at least the sum sought in terms of the application of £5,585.16 and are now in excess of that.

9. The Applicant's letting agent has contacted the Respondent on numerous occasions concerning the arrears but no further payments have been made by the Respondent and no payment proposals made.
10. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this application. The Respondent did not attend the CMD.
11. The sum sought of £5,585.16 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy and has not been paid by the Respondent.

### **Reasons for Decision**

1. The Tribunal considered all of the background papers, including the application and supporting documentation and the oral submissions made by the Applicant at the CMD. The Tribunal noted that no representations had been made by the Respondent and that he did not attend the CMD, having been properly and timeously notified of same. The Tribunal considered that there was nothing to contradict the information from the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Tribunal was satisfied that, in the circumstances, a payment order in terms of the application could properly be made at the CMD.
2. The Tribunal was satisfied from the information before it that the sum of £5,585.16 in unpaid rent is due and resting owing by the Respondent and that an order for payment in that sum should accordingly be made.
3. The Tribunal Decision was unanimous.

### **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.**

**Nicola Weir**

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Legal Member/Chair

**23 May 2022**  
Date