



**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/22/1426**

**Re: Property at Flat 2/2, 4 Tower Terrace, Paisley, PA1 2JT (“the Property”)**

**Parties:**

**Mrs Jennifer Glen, 19 Glenfield Gardens, Paisley, PA2 8BF (“the Applicant”)**

**Ms Jean Cowan, Flat 2/2, 4 Tower Terrace, Paisley, PA1 2JT (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)**

**Decision**

**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 £7,472, with interest at the rate of 1% per annum from today’s date 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 the sum of £6,097 with interest from the date of the decision.
2. By decision dated 27 June 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 28 June 2022. The Tribunal intimated the application to the parties by letter of 26 July 2022 and advised them of the date, time and conference call details of

today's case management discussion. 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 16 August 2022. No written representations were received by the Tribunal.

4. On 5 August 2022, the Tribunal received an application from the Respondent for a time to pay direction.
5. On 8 August 2022, the Tribunal received an email from the Applicant's representative, making an application to amend the sum sued for to £7,522 and that application was accompanied by an updated rent statement.
6. The Tribunal received an email from the Applicant's representative on 11 August 2022 setting out the basis upon which the Applicant objected to the application for a time to pay direction.

#### **The case management discussion**

7. The case management discussion took place by conference call. The Applicant was represented by Mrs Mullen. The Respondent participated in the discussion and was supported by Ms Michelle Stewart. This case called alongside a related case which proceeds under chamber reference FTS/HPC/EV/22/1425. The Applicant's representative advised that the Respondent had made a recent payment to the rent account and that the rent arrears currently amount to £7,472. The Applicant's representative sought an order for payment in that sum, together with interest at the rate of 3% per annum. Although there was no contractual term providing for interest, the Applicant's representative relied upon rule 41A which gives the Tribunal discretion to award interest. The Respondent accepted that she had incurred rent arrears and accepted that the sum sought by the Applicant is due. The Respondent offered payment at the rate of £50 per month. The Tribunal noted that the Applicant objected to the offer of £50 per month on the basis that it would take approximately 12 ½ years to repay the sums due which the Applicant considered to be an unreasonable period of time. The Respondent indicated that she could increase payments to £100 per month and the Tribunal noted that the Applicant was not prepared to accept instalment payments at that rate.

#### **Findings in Fact**

8. The parties entered into a private residential tenancy which commenced 1 July 2020.
9. The Respondent was obliged to pay rent at the rate of £475 per month, in advance.

10. As at the date of this case management discussion, the rent arrears due by the Respondent amounted to £7,472.

### **Reason for Decision**

11. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The updated rent statement lodged demonstrated that there are significant arrears of rent. The Respondent accepted that the rent arrears due were as reflected in the rent statement.
12. Although the Tribunal took account of the Respondent's personal and financial circumstances, it was not persuaded that it was reasonable to grant the application for a time to pay direction. Even if the Respondent were to pay at the increased rate offered, it would take in excess of 6 years to repay the sums due to the Applicant. The time to pay application was therefore refused.
13. The Tribunal observed that the debt due by the Respondent is substantial and has been outstanding for a considerable time. It was noted that the tenancy agreement made no provision for interest on late payment of rent. The Tribunal exercised its discretion and awarded interest on the sum due at the rate of 1% 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.**

**Nicola Irvine**

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**Legal Member/Chair**

**5 September 2022**

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**Date**