



**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/23/1751**

**Re: Property at 17 Silverlaw, Annan, DG12 5EQ (“the Property”)**

**Parties:**

**Mr James Hawkins, 22 VESTANEUM, CROSBY ON EDEN, CARLISLE, CA6 4PN (“the Applicant”)**

**Mr Liam Ogilvie, Ms Laura Hannah, 17 Silverlaw, Annan, DG12 5EQ (“the Respondent”)**

**Tribunal Members:**

**Petra Hennig-McFatridge (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the amount of £ 5,990 by the Respondents to the Applicant together with interest at the rate of 4% per annum from the date of the decision on 11 August 2023 until payment should be granted.**

**A: Background**

1. The application for an order for payment of rent arrears under S 71 of the Private Housing (Tenancies) (Scotland) Act 2016 arising from a Private Residential Tenancy Agreement between the parties was made by the Applicant on 26 May 2023.
2. The following documents were lodged by the Applicant to support the application. These are referred to for their terms and held to be incorporated herein:
  - a. Copy Private Residential Tenancy (PRT) agreement between the parties over the property commencing on 3 May 2019.
  - b. Tenancy rent statement for the period from May 2019 to May 2023..

3. On 11 July 2023 the application and notification of the Case Management Discussion (CMD) was served by Sheriff Officers on the Respondents. The Tribunal was satisfied that the Respondents had the required notice of the CMD as set out in Rules 17 (2) and 24 (2) of the Procedural Rules.
4. No formal representations were received from the Respondent.

### **B: Case Management Discussion**

1. The CMD took place by teleconference on 11 August 2023. Only the Applicant's representative Ms White from Jackson Boyd Lawyers attended the CMD. The Respondents did not take part in the teleconference call.
2. The legal member explained the purpose of the CMD.
3. Ms White stated that no further rent had been paid by the Respondents and the Respondents had moved out and returned the keys on 18 July 2023. The deposit was to be used for the final month's rent. There are no contractual interest provisions in the PRT, however the Applicant is asking for interest at 4% to be awarded under the Tribunal's discretionary powers. There had been no contact from the Respondents since 18 July 2023.

### **C: Findings in Fact:**

Based on the evidence lodged and the representations of the participants at the CMD the Tribunal makes the following findings in fact:

1. The property was let on a Private Residential Tenancy Agreement commencing on 3 May 2019..
2. The parties were the landlord and tenants of said Tenancy Agreement.
3. The tenancy is now at an end.
4. The monthly rent of £475 is payable on the 3rd day of the month and monthly in advance.
5. Rent arrears of £5,990 accrued as shown in the Rent Statement submitted for the period of up to and including May 2023 and are still outstanding for that period on the date of the CMD

### **D: Reasons for decision**

1. Relevant legislation:

In terms of Rule 17 of the Rules of Procedure:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

- (b) identifying what facts are agreed between the parties;
  - (c) raising with parties any issues it requires to be addressed;
  - (d) discussing what witnesses, documents and other evidence will be required;
  - (e) discussing whether or not a hearing is required; and
  - (f) discussing an application to recall a decision.
- (4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.
- Power to determine the proceedings without a hearing

However, in terms of Rule 18 of the Rules of Procedure:

- 18.—(1) Subject to paragraph (2), the First-tier Tribunal—
- (a) may make a decision without a hearing if the First-tier Tribunal considers that—
    - (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and
    - (ii) to do so will not be contrary to the interests of the parties; and
  - (b) must make a decision without a hearing where the decision relates to—
    - (i) correcting; or
    - (ii) reviewing on a point of law, a decision made by the First-tier Tribunal.
- (2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties

Interest on orders for payment

- 41A.—(1) The First-tier Tribunal may include interest when making an order for payment.
- (2) Where paragraph (1) applies, the interest is to be at the rate either—
- (a) stated in the relevant tenancy agreement, or
  - (b) ordered by the First-tier Tribunal,
- and running from the date of the decision of the First-tier Tribunal."

2. The Tribunal did not consider that there was any need for a hearing as there had been no representations from the Respondents and thus the arrears of £5,990 for the period of up to May 2023 as shown in the rent statement are not in dispute.

3. The Tribunal makes the decision on the basis of the documents lodged by the Applicant and the information provided by the Applicant at the CMD. The Tribunal considered that the Respondents had appropriate opportunity to make representations and take part in the hearing as the Sheriff Officer's service of the application and papers took place one week prior to the Respondents returning the keys for the property and moving out.

4. The Tribunal is thus satisfied that the Respondent had entered into a Private Residential Tenancy Agreement with the Applicant for the property. The rent was £475 per month and payments were made as set out in the rent statement lodged. No application for a time to pay direction or any other representations were provided by the Respondent. The amount stated in the updated application was still due and resting owing as of the date of the CMD. The Respondents had due notice of the amount and have not disputed the amount. The Tribunal thus grants a payment order for the amount of £5,990 for arrears of rent up to and including May 2023..

8. There are no provisions for interest payments on rent arrears in the PRT. However, in terms of Rule 41 A of the Procedural Rules the Tribunal can make an award of interest. The Tribunal considers that in this case interest on the outstanding amount should be paid at the rate of 4 % per annum, which is 1.25 % below the current Bank of England base rate of 5.25 %. This is the rate the Applicant had requested.

**E: Decision:**

**The Tribunal grants the order for payment of the amount of £5,990 by the Respondents to the Applicant together with interest at the rate of 4% per annum from the date of the decision on 11 August 2023.**

**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.**

**Petra Hennig-McFatridge**

**Petra Hennig McFatridge**  
**Legal Member/Chair**

**11/08/23**  
**Date**