



**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) 2016 Act**

**Chamber Ref: FTS/HPC/CV/22/1882**

**Re: Property at 42 Main Street, Linlithgow Bridge, Linlithgow, West Lothian, EH49 7PS (“the Property”)**

**Parties:**

**Malcolm John Henderson, PO Box 31, Northbridge, Western Australia WA 6865, Australia (“the Applicant”)**

**Christopher Old, 42 Main Street, Linlithgow Bridge, Linlithgow, West Lothian, EH49 7PS (“the Respondent”)**

**Tribunal Members:**

**Joel Conn (Legal Member) and Ann Moore (Ordinary Member)**

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

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

**Background**

- 1) This was an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy of the Property by the Applicant to the Respondent commencing on 21 June 2018.
- 2) The application was dated 15 June 2022 and lodged with the Tribunal on or around that date. The application sought payment of arrears of £2,625 plus interest at 8% from the date of decision and was accompanied by a rent statement showing this sum, made up of a missed rental payment of 21 October 2021 and then four missed monthly payments commencing on 21 February

2022, each of £525. The lease for the tenancy accompanied the application and detailed a rental payment of £525 payable in advance on the 21<sup>st</sup> of each month.

- 3) Prior to the case management discussion on 30 August 2022, an amendment motion was lodged, seeking to substitute an amendment application in the sum of £4,200. (This was said to be made up of the arrears previously due plus further missed monthly payments on 21 June and two following months.) Though evidence was not provided, the Applicant's agent confirmed in the amendment documentation that a copy had been intimated to the Respondent by email.

### **The Hearing**

- 4) The matter called for a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 14 September 2022 scheduled for 14:00. We were addressed by the Applicant's agent, Ruthven Bell, solicitor, of Jackson Boyd LLP.
- 5) There was no appearance for the Respondent and no correspondence had been sent by him to the Tribunal. The Applicant's agent stated that no contact had been received from the Respondent either prior to the application (when debt recovery correspondence was issued by his firm for a period) or since lodging of the application. We had already held back commencement of the CMD until 14:05 but the Respondent, nor anyone on his behalf, dialled in (nor did anyone do so prior to the conclusion at around 14:30). In all the circumstances we were satisfied to consider the application in the absence of the Respondent.
- 6) The Applicant's agent confirmed that the order for payment was still sought but in the amended amount of £4,200. He further confirmed that the deposit held for the Property remained with the tenancy deposit scheme provider and had not been applied against the arrears.
- 7) There was no interest rate in the Tenancy Agreement and the Applicant's agent sought 8% from the date of order. No motion was made for expenses.

### **Findings in Fact**

- 8) On 21 June 2018, the Applicant let the Property to the Respondent by lease with a start date of that day under a Private Residential Tenancy ("the Tenancy").
- 9) Under the Tenancy, in terms of clause 8, the Respondent was to make payment of £525 per month in rent to the Applicant in advance, being a payment by the 21<sup>st</sup> of each month to cover the month to follow.
- 10) As of 14 September 2022, there was unpaid rent of £4,200 being unpaid rent due for the period 21 October to 20 November 2021 and then a further seven months of unpaid rent due for the period 21 February to 20 September 2022, being eight unpaid months of rent at £525 per month.
- 11) On 15 June 2022, the Applicant raised proceedings against the Respondent for an order for payment of the then rent arrears of £2,625.

- 12) On 2 August 2022, a Sheriff Officer acting for the Tribunal intimated the CMD of 14 September 2022 upon the Respondent.
- 13) On 30 August 2022, the Applicant sought to amend the proceedings to seek an order for payment of rent arrears of £4,200 and intimated same by email to the Respondent.
- 14) The Respondent provided no evidence of payment of any part of the said unpaid rent of £4,200.

### **Reasons for Decision**

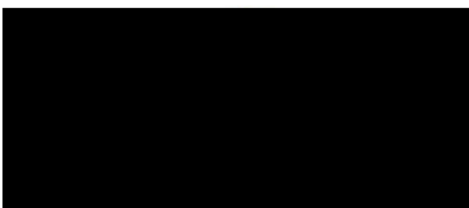
- 15) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. We were satisfied, on the basis of the application and supporting papers, including those of the amendment motion, that rent arrears of £4,200 were outstanding as of today for the rent due to 20 September 2022.
- 16) The application clearly set out the sums and we were satisfied that the necessary level of evidence for these civil proceedings had been provided. No dispute was stated by or on behalf of the Respondent. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. We were thus satisfied to make a decision at the CMD to award the sum of £4,200 against the Respondent with interest at 8% from today's date until payment, being an order restricted to sums due under the lease in regard to rent up to 20 September 2022.

### **Decision**

- 17) In all the circumstances, we were satisfied to make the decision to grant an order against the Respondent for payment of £4,200 with interest at 8% from the date of this order 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.**



**Legal Member/Chair**

14 September 2022

**Date**