

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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/19/1350**

**Re: Property at 30 Wallace Avenue, Stevenson, KA20 4BN (“the Property”)**

**Parties:**

**Mr Thomas Milgrew, c/o Ayrshire Letting and Sales, 26 Ritchie Street, West  
Kilbride, KA23 9AL (“the Applicant”)**

**Mr William Mitchell, 30 Wallace Avenue, Stevenson, KA20 4BN (“the  
Respondent”)**

**Tribunal Members:**

**Morag Leck (Legal Member)**

**Decision in absence of the Respondent**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Applicant was entitled to an order for payment  
by the Respondent to the Applicant in the sum of £3375.00.**

**Background**

This is an application dated 30<sup>th</sup> April 2019 for an order for payment in respect of alleged rent arrears due to the Applicant by the Respondent in terms of the tenancy of the Property. The Application is made under Rule 111 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.

The Applicant included with his application copies of the following documents:-

- i) Private Residential Tenancy Agreement
- ii) Rent statement detailing arrears of rent as at 23<sup>rd</sup> April 2019 of £3375.

The parties were advised by letter dated 30<sup>th</sup> May 2019 of the date, time and venue for a Case Management Discussion (CMD) and the Respondent was advised to make any written representations by 21<sup>st</sup> June 2019. The respondent's letter had been served by Sheriff Officers on 3<sup>rd</sup> June 2019. No written representations were received from him.

### **Case Management Discussion**

A CMD was held at Ardeer Community Centre, Stevenston on 3rd July 2019. The Applicant did not attend personally and was represented by Mrs Kathleen McCallan of Ayrshire Lettings and Sales. The Respondent did not attend. The CMD proceeded in the absence of the Respondent. This case was heard alongside a related case which proceeds under Chamber Reference FTS/HPC/EV/19/1215.

Mrs McCallan confirmed that Ayrshire Lettings and Sales had taken over as letting agent for the property on 23<sup>rd</sup> June 2018. The previous letting agent was no longer trading. An Email confirming this and transfer of agency from County Properties to Ayrshire Letting and Sales was before the Tribunal.

Mrs McCallan confirmed that as of today's date, rent arrears have been accumulating over 11 months. The total rent now due was £4125.00. She had brought with her an up to date rental statement showing this amount. The Tribunal explained that it was possible for the application to be amended to the higher figure of rent arrears but the Tribunal would require, in the interests of fairness, to continue the application to a further CMD in order to allow intimation of the higher amount sought to the Respondent.

Mrs McCallan advised that in the circumstances then she would request that the application be granted for the sum detailed in the rent statement submitted with the application namely £3375.00

Mrs McCallan advised that all efforts to contact the Respondent regarding outstanding arrears had been unsuccessful with several visits also made to the Property. Neighbours had advised that the Respondent continued to live in the Property .No contact had been received from the Respondent after September 2018 when the last rental payment was made.

### **Findings in Fact**

1. The Applicant and the Respondent entered into a Tenancy Agreement on 23<sup>rd</sup> April 2018.
2. The rent payable was £375.00 per month payable in advance.
3. The arrears of rent as at 23<sup>rd</sup> April 2019 amounted to £3375.
4. The applicant was entitled to the order for repayment in the sum of £3375.00.

### **Reasons for Decision**

The Tribunal was satisfied from the evidence provided by the Applicant's representative and from the documentary evidence provided that the parties had entered into a tenancy agreement that commenced on 23<sup>rd</sup> April 2018 at the monthly rent of £375.00.

The Tribunal was satisfied that the rent schedule prepared by the Applicant's letting agent showed a sum due of £3375.00 as at the date of the application. The Applicant's representative did not seek to amend the application to the higher sum of £4125.00 advised at the CMD and asked the Tribunal to grant an order for payment in the sum of £3375.00. The Tribunal being satisfied that this sum was due by the Respondent at the date of the application was prepared to grant the order.

### **Decision**

The Tribunal finds that the Applicant is entitled to an order for payment by the Respondent to the Applicant in the sum of £3375.00

### **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.

**Morag Leck**

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Legal Member

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Date

*3rd July 2019*