



**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.**

**Chamber Ref: FTS/HPC/CV/19/4070**

**Re: 2 Slockavullin, Kilmartin, Lochgilphead, Argyll, PA31 8QG (“the property”)**

**Parties:**

**Peter McLardy, Herons Cottage, Ardfern, Lochgilphead, Argyll, PA31 8QN  
 (“the applicant”)**

**Kris Stewart, 2 Slockavullin, Kilmartin, Lochgilphead, Argyll, PA31 8QG  
 (“the respondent”)**

**Tribunal Member:**

**Adrian Stalker (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum sought by the applicants, as rent arrears, of £2,250, was lawfully due from by the respondent, and granted an order for payment of that sum, by the respondent, to the applicants, with interest at four per cent per annum from the date of the Order.**

**Background**

1. In December 2017, the applicant let the property to the respondent, under a private residential tenancy. The parties entered into a written tenancy agreement. This states, in clause 7, that the rent is £450 per calendar month, payable in advance.

2. By an application dated 20 December 2019, the applicant sought an order for payment of £2,250, being rent arrears. Later, by an application dated and 19 February 2020, the applicant also sought an eviction order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. That application is

FTS/HPC/EV/20/0636. Reference is made the Tribunal's decision in relation to that case, also dated 17 March 2020.

3. On 25 February 2020, notice of acceptance was granted by a legal member. A Case Management Discussion ("CMD") was fixed, in respect of both the payment application and the eviction application.

#### The CMD

4. The CMD took place at 10am on 17 March 2020, at the Community Centre, Manse Brae, Lochgilphead. The applicant attended, with his wife Sylvia McLardy, and a supporter, Bettina Vettori. The respondent did not appear, and was not represented. The respondent had not made any written representations to the Tribunal, in advance of the CMD. However, he had sought to have the hearing postponed. That request was refused, on 12 March. The respondent was, therefore, clearly aware of the date and time of the hearing. In those circumstances, the Tribunal decided to proceed in his absence.

5. Under rule 17(4) of the schedule to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Procedure Rules") the First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The applicant asked the Tribunal to grant an order for payment against the respondent in favour of the applicant.

#### Findings in fact, and in fact and law; reasons for decision

6. The application included copy bank statements provided by the applicant. These indicated that the respondent had not paid the rent for the months of August to December 2019. As at the date of the application, the sum outstanding was £2,250.

7. Since then no rent has been paid for the months of January to March 2020. However, it was explained to the applicant that, in order to increase the amount sought in the application, it would have been necessary to seek leave to amend the application under rule 14A of the Procedure Rules, more than 14 days before the CMD. The applicant indicated that he did not wish to have the CMD adjourned for amendment of the application. At the CMD, his application for an eviction order was dismissed, as the notice to leave was invalid. In the circumstances, the applicant decided that he would make another application for a payment order in due course, at the same time as another application for an eviction order.

8. In absence of any indication by the respondent to the contrary, the Tribunal was prepared to accept that arrears of £2,250 in respect of the payments due from August to December 2019 remained outstanding.

Decision

9. The Tribunal accordingly granted an order for payment in the sum of £2,250.

10. The applicant also sought an Order for interest, from the date of the CMD, under rule 41A(2)(b). The Tribunal granted that Order.

**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.**

Mr Adrian Stalker

Legal Member

17/03/2020

Date