



**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/23/2814**

**Re: Property at 6 Tantallon Road, Baillieston, Glasgow, G69 7AZ (“the Property”)**

**Parties:**

**Gibtime Limited, La Vita, 161 Queen Street, Glasgow, G1 3BJ (“the Applicant”)**

**Miss Giselle Liana Oliveira Magalhaes, 6 Tantallon Road, Baillieston, Glasgow, G69 7AZ (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of Six Thousand Nine Hundred and Fifty pounds only (£6950.00) be made against the Respondent and in favour of the Applicant.**

**Background**

1.This application for a payment order in terms of rule 111 of the tribunal rules of procedure was first lodged with the tribunal on the 17th of August 2023 along with a related application for an eviction order with reference FTS.HPC.EV.23.2813.This application was accepted by the Tribunal on 5<sup>th</sup> September 2023 and a case management discussion was fixed for 19th January 2024 at 2pm.

**Case Management Discussion**

2.The case management discussion was attended by Miss Robertson of Levy and McRae solicitors who represented the Applicant and by Miss Simpson from Govan Law Centre who represented the Respondent who was also in attendance.

3.The Tribunal had sight of the application, a tenancy agreement, a paper apart, and a rent statement detailing rent arrears.

4.The parties had entered into a private residential tenancy at the property with effect from 17th June 2022.The rent payable in terms of the tenancy agreement is £150 per week payable in advance. The tenancy was entered into in consequence of the Respondent's employment with an organisation trading as La Vita Restaurants, the trading name for a group of companies known as La Vita and controlled by Marco Arcari. Miss Robertson explained that Gibtime Ltd, the landlords in terms of the tenancy agreement provide accommodation for employees of the La Vita group of companies. The directors of all the companies are the same, Mr Arcari and his son. The only shareholder in all of the companies is Mr Marco Arcari and it was not disputed that profits made by Gibtime Ltd are reinvested in the La Vita Group of companies. Miss Robertson's position was that the companies all had the same controlling mind and financial interest and were separate only for the purposes of management of the businesses.

5.The Respondent became an employee of La Vita Restaurants on 30<sup>th</sup> May 2022 and the tenancy commenced on June 17<sup>th</sup> of that year. The tenancy was tied to the Respondent's employment. The Respondent's employment with La Vita ended on 13 January 2023 but she continued to reside at the let property and rent arrears started to accrue in March 2023.Miss Robertson advised the Tribunal that rent arrears had increased since the application was submitted and had reached £6950.Miss Simpson for the Respondent did not dispute this figure and had no objection to the Tribunal considering whether to make an order in this higher sum. The Tribunal allowed the sum being requested to be increased to £6950 in terms of Rule 14A of the Tribunal procedure rules given that the Respondent did not dispute the level of rent arrears being claimed.

6.Miss Simpson had been recently instructed by the Respondent who had previously been advised by the CAB and a time to pay application had been lodged by CAB which application had been opposed by the Applicant's representative. Miss Simpson had instructions to withdraw the time to pay application and not to oppose an open payment order being made. She said that since the Respondent's employment was terminated by the Applicant, she had a period where she received no income at all, and thereafter she had been receiving benefits as she is not able to work due to her poor mental health. She has no savings or assets and was unable to meet any instalment payment which the Tribunal might fix. Miss Simpson said that the Respondent or her agent, would contact the Applicant's agent in due course to confirm the payments that will be made towards the debt and that he was referring the Respondent to GEMAP, who will be able to provide money and welfare rights advice, as it is believed the Respondent may be entitled to additional benefits income.

7.The Tribunal was satisfied that it has sufficient information upon which to make a decision and that the proceedings had been fair.

### **Findings in Fact**

8.The parties entered into a private residential tenancy at the property with effect from 17<sup>th</sup> June 2022.

9.The tenancy was tied to her employment with a company related to the landlord Gibtime Ltd, namely La Vita Restaurants, one of a group of connected companies operating as part of the La Vita Group.

10.The rent payable in term of the tenancy agreement is £150 per week payable in advance.

11.The Respondent's employment with La Vita came to an end on 13 January 2023 and she continued to stay at the let property.

12.Rent arrears started to accrue in terms of the tenancy and by 19<sup>th</sup> January 2024 had reached £ 6950.

13.The Respondent had no income at all for a short time after her employment with La Vita ended and she is now in receipt of benefit of benefits and cannot work due to poor health.

14.The Respondent accepts that the sum of £6950 is lawfully due by her to the Applicant in relation to rent arrears accrued in terms of the tenancy agreement between the parties.

### **Reasons for Decision**

The tribunal granted a payment order for the sum requested which was not in dispute. An open order was granted at the request of the Respondent's solicitor as the Respondent has no means currently to make payments towards the debt. The Tribunal considered it reasonable to make a payment order in these circumstances.

### **Decision**

The Tribunal determined that a payment order in the sum of Six Thousand Nine Hundred and Fifty pounds only (£6950.00) be made against the Respondent and in favour of the Applicant.

### **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.**

# V Bremner

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Legal Member/Chair

19.1.24  
Date