



**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) Act 2016**

**Chamber Ref: FTS/HPC/CV/23/4615**

**Property : 25B Vicar Street, Falkirk FK1 1LL (“Property”)**

**Parties:**

**H&B Collection Ltd, 9 Royal Crescent, Glasgow G3 7SP (“Applicant”)**

**TC Young Solicitors, 7 West George Street, Glasgow G2 1BA (“Applicant’s Representative”)**

**Steven Robb, 25B Vicar Street, Falkirk FK1 1LL (“First Respondent”)**

**Brogan Stewart, Avondhu, Bank Street, Slamannan, Falkirk FK1 3EZ (“Second Respondent”)**

**Cartys, Solicitors, 2 Clydeview Centre, Blantyre G72 0QD (Respondent’s Representative”)**

**Tribunal Members:**

**Joan Devine (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for payment of £5858.75 should be made.**

**Background**

The Applicant sought an order for payment of £3283.75 plus interest at the rate of 8%. The Applicant had lodged Form F. The documents produced were: a Private Residential Tenancy between the Applicant and the Respondent dated 18 April 2019; Rent increase notice dated 14 April 2023 with covering email to each Respondent and a rent statement. The Tribunal had sight of a certificate of service by sheriff officer evidencing service of the Application on the First and Second Respondent on 18 March 2024. On 3 April 2024 the First Respondent lodged a written submission in which he stated he accepted liability for “his share” of the outstanding rent. On 8 April 2024 the Applicant’s Representative lodged an updated rent statement and sought to

amend the sum claimed to £5858.75. The Representative for the Second Respondent lodged a written submission on 18 April 2024.

### **Case Management Discussion**

A CMD took place before the Tribunal on 24 April 2024 by teleconference. The Applicant was represented by Claire Mullen of the Applicant's Representative. There was no appearance by the First Respondent. The Second Respondent was in attendance and was represented by Lisa Agyako of the Second Respondent's Representative.

Mrs Mullen asked for the sum claimed to be amended to £5858.75. She sought a payment order against both Respondents for that amount plus interest at 8% per annum.

Ms Agyako confirmed that the Second Respondent had received notification of the amendment. The Tribunal noted from the written submission lodged that the Second Respondent accepted that the liability for rent in terms of the Tenancy Agreement was joint and several but asked the Tribunal to make a payment order against the First Respondent alone. The Tribunal asked on what basis it could ignore the clear provisions of the Tenancy Agreement. Ms Agyako said that the Second Respondent had left the Property due to domestic abuse. She said the Applicant had been informed of that on 22 August 2023. She said the Second Respondent was unable to terminate the Tenancy Agreement alone. She said the Second Respondent was unable to pay the sum claimed. She said she appreciated the Tribunal could not depart from the joint and several liability provisions in the Tenancy Agreement but asked the Applicant to reconsider seeking a payment order against the Second Respondent.

The Tribunal noted from the written submission lodged that the Second Respondent said that the rent payment date had changed from 18<sup>th</sup> of each month to the end of each month. The Tribunal asked Ms Agyako what difference that made to the outstanding sum. She said it made no difference.

The Tribunal adjourned to allow Mrs Mullen to take instructions from the Applicant regarding whether they would seek a payment order against the First Respondent alone. The tribunal reconvened and Mrs Mullen said that her instructions were to seek a payment order against both Respondents.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the First and Second Respondent entered into a Tenancy Agreement dated 7 and 18 April 2019 ("Tenancy Agreement").

2. In terms of the Tenancy agreement the rent was £625 per month.
3. The rent was increased to £643.75 per month from 18 July 2023.
4. The First and Second Respondent failed to pay the rent for the period 18 July 2022 to 8 April 2024. The unpaid amount was £5858.75.

### **Reasons for the Decision**

The Tribunal determined to allow the sum sought to be amended to £5858.75. Thereafter the Tribunal determined to make an Order for payment. In terms of the tenancy agreement rent was due at the rate of £625 per month. This was increased to £643.75 per month from 18 July 2023. The rent was not paid in full for the period 18 July 2022 to 8 April 2024. The unpaid amount was £5858.75. The Tenancy Agreement did not contain a contractual right to interest. The Tribunal declined to award interest in terms of Rule 41A.

### **Decision**

The Tribunal grants an order for payment of £5858.75.

### **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**

**Date: 24 April 2024**