



**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/23/1081**

**Re: Property at Dunilloie, Tertowie, Kinellar, AB21 0TQ (“the Property”)**

**Parties:**

**Craigmar Properties, Chapel Works, Bucksburn, Aberdeen, AB21 9TL (“the Applicant”)**

**Ms Erin Lees Miller, 39 Willside Avenue, Dufftown, Banffshire, AB55 4AG (“the Respondent”)**

**Tribunal Member:**

**Karen Kirk (Legal Member)**

This hearing was a Case Management Discussion (hereinafter referred to as a “CMD”) which concerned an Application for civil proceedings under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The purpose of the hearing being to explore how the parties dispute may be efficiently resolved. The CMD took place by teleconference. The Legal Member explained the function of a CMD and decisions which could be made.

## **1. Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondent for the sum of £1300.**

## **2. Attendance and Representation**

The Applicants were represented by Charles Marshall.

The Respondent was present.

### **3. Preliminary Matters.**

The Respondent late on the day before the hearing had emailed the Tribunal seeking a postponement. She was planning on seeking money advice through her physiatrist but her psychiatrist was off work and she sought further time. The Tribunal did not grant a postponement and the hearing took place.

The Tribunal raised with the Respondent that the Tribunal had adjourned the last Case Management Discussion to allow the Respondent an opportunity to complete a Time to Pay application. A Direction was issued. No time to Pay application was lodged. The Respondent said she had been unable to complete same advising she had started a phased return to work but this had been in November and not September as she had thought.

There were no other preliminary matters discussed.

### **4. Case Management Discussion.**

#### *For the Applicant's*

The Applicant's representative explained that he had attempted to make payment plans and given matters had not progressed following the last hearing he sought a Payment Order for the sum of £1300. He had previously explained that this comprised of the last 2 months of rent for the property after deduction of a payment of £50 made in April 2022.

The Respondent said in the event an order was granted he would still agree to a repayment proposal from the Respondent. There had been nothing paid in almost a year to the debt.

#### *For the Respondent*

The Respondent explained that as she has not been working she did not have the money to make payments. She accepted liability for the debt.

The Respondent had previously said she had become unwell and was diagnosed with bipolar disorder and she was unable to work due to this. She had returned to work in January 2023 and had entered into a debt repayment plan but she had to go off work sick again before she could commence payments. She had been unable to return to work in September 2023 as planned and instead has started now a phased return in November 2023.

### **5. Findings in Fact**

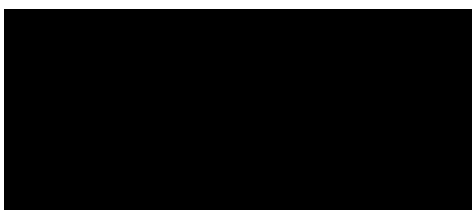
1. This Application is dated 28<sup>th</sup> March 2023 and brought in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The application had been continued previously to allow time for the Respondent to lodge a Time to Pay Application. The Tribunal issued a Direction to require the Respondent to lodge a time to Pay application. The Respondent did not lodge a Time to Pay application. The Tribunal considered in light of all the circumstances it was appropriate having regard to the overriding objective to proceed to determine the case.
2. The Applicants are the heritable proprietor of the property.
3. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 1<sup>st</sup> June 2021.
4. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
5. Rent payable under this tenancy is £650 per month.
6. As at the rent statement lodged with the application the rent due by the Respondent to the Applicant was £1300. The Respondent accepted the liability for the debt and amount.

## **6. Reasons for Decision**

The Tribunal was satisfied that the Applicants were the heritable proprietor of the Property. The Tribunal was satisfied that there was a valid Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the Respondent was in arrears of rent lawfully due and an up to date Rent Statement detailing this for the property had been lodged. In terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £1300 against the Respondent.

## **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.**



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**Legal Member**

21<sup>st</sup> November 2023

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**Date**