



**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 (“the Regulations”)**

**Chamber Ref: FTS/HPC/CV/23/1001**

**Re: Property at 44 First Floor City Road, Dundee, DD2 2BJ (“the Property”)**

**Parties:**

**Ms Georgia Bedding, Mr Neil Thomson, 50 Castle Street, Dundee, DD1 3AQ (“the Applicant”)**

**Mr Robert Burns, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent in the sum of £1,422.47 should be made in favour of the Applicant.**

**Background**

1. By application received on 27 March 2023, the Applicant originally sought a payment order against the Respondent in the sum of £1,067.21 in respect of rent arrears. Supporting documentation was submitted with the application, including a copy of the tenancy agreement and a rent statement.
2. Following further procedure, the application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 19 July 2023. Notification of the application was made to the Respondent, together with the date, time and arrangements for a Case Management Discussion (“CMD”). Service was initially due to take place by way of Sheriff Officer. However, on it being ascertained that the Respondent

had by then vacated the Property and his forwarding address was unknown to the Applicant, service on the Respondent was made by way of advertisement on the Tribunal's website for the requisite period. The date by which representations were to be lodged by the Respondent was extended to 27 November 2023. No written representations were lodged by the Respondent.

3. By email dated 31 October 2023, the Applicant's representative submitted an application to amend the application in order to increase the sum sought to £1,422.47, together with an updated Rent Statement and some further representations

### **Case Management Discussion**

1. A Case Management Discussion ("CMD") took place by telephone conference call on 28 November 2023 at 10am, attended only by Mr Logan Valentine of Rockford Properties, the Applicant's representatives. The commencement of the CMD was delayed for 5 minutes to allow an opportunity for the Respondent to join late but he did not do so.
2. Following introductions and introductory remarks by the Legal Member, Mr Valentine was asked to address the Legal Member of the Tribunal on the Application. Mr Valentine confirmed that an order was sought for payment in the increased sum of £1,422.47 in respect of rent arrears accrued in respect of this tenancy. He referred to the most recent Rent Statement and advised that there had been a history of arrears and erratic payments throughout the tenancy. Payments were made here and there by the Respondent but these were too small to cover the ongoing rental payments, let alone reduce the arrears which had accrued. The Applicant's representatives had tried to work with the Respondent to reach agreement on a payment plan but this was not forthcoming and when the arrears reached a certain level, the Tribunal application was made. In October 2023, the deposit of £675 was recovered in full from the tenancy deposit scheme and applied to the rent arrears so the sum sought in net of that. In response to questions from the Legal Member, Mr Valentine confirmed that it was his colleague who had dealt with the Respondent and that he had handed his keys to the Property back in August 2023. At this point a separate eviction application which was also lodged with the Tribunal was withdrawn, as the Respondent had vacated the Property. He gave no notice so they apportioned the rent that was due for the relevant month to take it up to 31 August 2023, as shown in the Rent Statement. Mr Valentine advised that there has been no contact from the Respondent since he vacated the Property and no further payments coming into the rent account beyond what is shown on the most recent Rent Statement. Mr Valentine confirmed that the three last credit entries on the statement are in respect of the tenancy deposit of £675. He explained that this is shown as three separate entries, totalling £675, due to the way their system allocates payments made. Mr Valentine confirmed that the Respondent never really offered any explanation as to the rent arrears. He did keep making payments up to a point but they were erratic and for small amounts. Mr Valentine did not know if he was having financial difficulties or any detail of his circumstances.

## **Findings in Fact**

1. The Applicant is the owner and the landlord of the Property.
2. The Respondent was the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 14 May 2020.
3. The tenancy was in the joint names of the Respondent and his partner but she left the Property in or around December 2020 and the Respondent took over sole responsibility of the tenancy at that time.
4. The initial rent due in respect of the tenancy was £525 per calendar month, which was increased by the Applicant as from 14 October 2022 to £600 per calendar month.
5. There was a history of rent arrears and erratic rental payments.
6. The last payment made towards rent by the Respondent was on or around 6 July 2023.
7. The Applicant contacted the Respondent about the arrears on numerous occasions but was not given any explanation and no payment plan was arranged or adhered to.
8. The Respondent remained in occupation of the Property until in or around August 2023 and then vacated, without notice.
9. The Applicant recovered the tenancy deposit of £675 in full in or around October 2023 and this was applied to the rent arrears balance.
10. The rent arrears outstanding when this application was submitted to the Tribunal on 27 March 2023 amounted to £1,067.21 and now amount to £1,422.47.
11. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this Application.
12. The Respondent did not attend the CMD.
13. The sum of £1,422.47 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy in terms of this application and has not been paid by the Respondent.

## **Reasons for Decision**


1. The Tribunal considered all of the background papers, including the application and supporting documentation and the oral submissions made by the

Applicant's representative at the CMD. The Tribunal noted that no representations had been made by the Respondent and that he did not attend the CMD, having been properly and timeously notified of same by way of advertisement on the Tribunal website for the requisite period from 6 November 2023 to 28 November 2023 inclusive, conform to Certificate of Service by Advertisement dated 28 November 2023. The Tribunal was satisfied that the application on behalf of the Applicant to increase the sum sought had been made timeously in terms of the Regulations and, accordingly, the Tribunal permitted said amendment to be made.

2. The Tribunal considered that there was nothing to contradict the information from the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Tribunal was satisfied that the sum of £1,422.47 was due and resting owing by the Respondent in respect of unpaid rent due to the Applicant and that, in the circumstances, a payment order in terms of the amended application could properly be made at the CMD.

### **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/Chair**

**28 November 2023**  
**Date**