

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/22/1920

Re: Property at 2 Park Holme Court, Hamilton, ML3 OFB (“the Property”)

Parties:

**Adaptocare Ltd, McDaid and Partners, 69/71 Hamilton Road, Motherwell, ML1
3DG (“the Applicant”)**

**Ms Dianne Clair Reap, 77 Morven Avenue, Blantyre, G72 9JT (“the
Respondent”)**

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of THREE THOUSAND NINEHUNDRED POUNDS (£3900) STERLING with 4% interest per annum from the date of decision until payment. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an application dated 17 June 2022 made by the Applicant for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties starting 22 June 2020 and a rent statement to 23 May 2022.

3. On 5 July 2022 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 3 August 2022 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 24 August 2022. The Tribunal advised parties on 3 August 2022 that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 19 September 2022. This paperwork was served on the Respondent by Andrew McLean, Sheriff Officer, Glasgow on 3 August 2022 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not make any written representations by 24 August 2022.
6. The Tribunal discharged the CMD assigned for 19 September 2022 due to the funeral of her late Majesty the Queen. The Tribunal assigned a new CMD to proceed on 7 November at 2022 10am. Parties were advised of the date of the new CMD on 16 September 2022.
7. On 1 November 2022 a representative of the Respondent called the Tribunal to check the date of the CMD and was advised the CMD was to proceed on 7 November 2022 at 10 am.

Case Management Discussion

8. The Tribunal proceeded with a CMD on 7 November 2022 by way of teleconference. Mrs Mullen from TC Young, solicitors appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent despite the teleconference starting 5 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence together.
9. The Tribunal had before it the Private Residential Tenancy Agreement between the parties commencing 22 June 2020 and a rent statement to 23 May 2022 showing arrears of £3900. The Tribunal considered these documents.
10. Mrs Mullen moved the Tribunal to grant a payment Order for £3900 with interest of 4% in terms of Rule 41A of the Regulations. With reference to the tenancy agreement the Tribunal noted that in terms of Clause 8 the Respondent had agreed to pay rent of £650 per month. The Tribunal also noted the last payment to the rent account of £650 was made on 4 January 2022 as shown in the rent statement. On being questioned by the Tribunal Mrs Mullen advised no further payments had been made and that the tenancy had ended.

Findings in Fact

11. The Applicant and the Respondent agreed by way of Clause 8 of a Private Residential Tenancy Agreement starting 22 June 2020 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £600.
12. The Respondent has fell into arrears of rent. The arrears as of 23 May 2022 were £3900. The last payment made to the rent account by the Respondent was £650 on 4 June 2022.

Reasons for Decision

13. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mrs Mullen.
14. The Tribunal noted the terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to 23 May 2022 as being £3900. Mrs Mullen had produced evidence of persistent non- payment of rent with reference to the rent statement. The Respondent had been given an opportunity to appear before the Tribunal to dispute the Application. She did not do so. The Tribunal was satisfied on the basis of the documents, together with Mrs Mullen's submissions that the order for payment in favour of the Applicant be granted. Further the Tribunal was satisfied 4% interest was a reasonable rate of interest and accordingly awarded interest of 4% per annum from the date of decision in terms of Rule 41A of the Regulations.

Decision

15. The Tribunal granted an order for payment of £3900 with interest at 4% per annum

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.

Shirley Evans

7 November 2022

Legal Member

Date