



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/22/2273**

**Re: Property at 7 Queens Pend, Blairgowrie, PH10 6EU (“the Property”)**

**Parties:**

**LAR Housing Trust, F3 Buchan House, Enterprise Way, Fife, Dunfermline, KY11 8PL (“the Applicant”)**

**Mr Ryan Magee, 7 Queens Pend, Blairgowrie, PH10 6EU (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal Member) and Elizabeth Currie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the sum of £6167.52 be granted in favour of the Applicant.**

**Background**

1. This was the second Case Management Discussion (CMD) of an application by the Applicant dated 6<sup>th</sup> July 2022 for an order for payment of rent arrears against the Respondent. The first CMD was held on 17<sup>th</sup> October 2022 when the case was continued so the Applicant could seek an increase in the sum claimed.
2. The following documents were lodged with the application -
  - A copy of the Tenancy Agreement dated 1<sup>st</sup> June 2021
  - Rent increase letter
  - Copy rent statement showing rent due as of 1<sup>st</sup> June 2022 of £4,235
3. The application and accompanying papers had been served on the Respondent by sheriff officers on 1<sup>st</sup> September so the Tribunal considered intimation of the time and date of the original teleconference had been made. The Respondent did not attend at the first CMD nor had he made any written representations.

4. Shortly prior to the first CMD on 13<sup>th</sup> October the Applicant applied to increase the sum claimed to the figure of £5,536 and the Applicant's solicitor Ms Mullen advised she had sent notice of this revised figure to the tenant by recorded delivery on 29<sup>th</sup> September. As 14 days' notice had not been given to the Tribunal of the request to increase the sum Ms Mullen asked for the case to be continued to allow her to provide the 14 days' notice to the Tribunal and to ask for a further amendment to the sum sought if arrears continued to accrue. The Tribunal granted the Applicants request and the CMD was continued to today, 24<sup>th</sup> January, with notification of this being sent to both parties on 30<sup>th</sup> November 2022.
5. The note of the CMD of 17<sup>th</sup> October is referred to for its terms.

### **The Case Management Discussion (CMD)**

6. The CMD proceeded today by way of teleconference. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. The Applicant's legal representative Ms Kirstie Donnelly attended on behalf of the Applicants. The Respondent was not present and has not made any representations.
7. Ms Donnelly confirmed that her clients were seeking an order for payment of rent due in terms of the lease with the Respondent of the Property. She referred to her colleague's e-mail dated 9<sup>th</sup> December 2022 where Ms Mullen applied to increase the sum claimed to the figure of £6,836.80 being rent due to end of December 2022, and advised that notice of this revised figure had been sent to the tenant by e-mail, post and recorded delivery on 9<sup>th</sup> December. Ms Donnelly advised that the Respondent has now been evicted from the Property, following the order being granted from the Tribunal in October 2022. She confirmed the eviction took place on 13<sup>th</sup> December 2022 and that the Respondent had access to the property up to that date.
8. Ms Donnelly advised that as the tenancy ended on 13<sup>th</sup> December 2022 the rent sought had been amended and the sum due for December 2022 was reduced to £185.32 being a pro-rata amount to 13<sup>th</sup> December. She also confirmed that the Applicants have received the return of the deposit as the Respondent indicated to the deposit company that he would agree to the release of the deposit to be put to the rent arrears. Allowing for the reduction in December's rent and the deduction of the deposit Ms Donnelly confirmed revised figure sought was £6,167.52 and she was seeking interest on the rent due but was happy to leave that to the Tribunal's discretion, although she submitted that 3% would be reasonable.

### **Findings in Fact**

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 3<sup>rd</sup> June 2021.
2. The Rent due in terms of the lease was initially £421 per calendar month payable in advance
3. Rent was increased from 1<sup>st</sup> May 2022 to £433.60
4. The tenant was evicted from the property on 13<sup>th</sup> December 2022
5. The rent outstanding at 13<sup>th</sup> December 2022 is £6,588.52

6. The deposit of £421 has been returned to the Applicant and has been put towards the arrears.
7. The final sum outstanding and due after deduction of the deposit is £6,167.52.

- **Reasons for Decision**

8. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £421 per month in rent. The rent was increased by the Applicant to £433.60 per month after they served a rent increase notice which advised the rent would increase from 1<sup>st</sup> May 2022.
9. The Respondent has failed to pay the full rent due. The Respondent has not paid anything since August 2021. At the first CMD the Applicant's solicitor advised that the Applicant had made considerable attempts to contact the Respondent and to agree a plan to pay off the arrears. The Respondent has not paid anything towards the arrears.
10. An eviction order was granted on 17<sup>th</sup> October 2022 by the Tribunal and was enforced by the Applicant on 13<sup>th</sup> December 2022. The Respondent has therefore had notice of this application and the request to increase the sum sought prior to his eviction. He has not made any written representations or attended this CMD. The Applicants provided a revised rent statement confirming rent had increased on 9<sup>th</sup> December and this was intimated on the Respondent so the Tribunal finds that the Applicant has successfully intimated a request to increase the sum due.
11. The Tribunal accepts the written evidence and verbal statements made by the Applicants solicitor who the Tribunal found clear and credible in their evidence that the rent outstanding as of 13<sup>th</sup> December after deduction of the deposit is £6,167.52. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today together with interest as sought. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed with interest at the rate of 3% being a reasonable rate given the rate of borrowing at the current time.

- **Decision**

An order for payment of the sum of £6,167.52 with interest at 3% is granted.

### **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.**

J. Todd

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**Legal Member/Chair**

**24<sup>th</sup> January 2023**  
**Date**