



**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/22/0957**

**Re: Property at Flat 6, 5 Fisher Place, Edinburgh, EH17 8UY (“the Property”)**

**Parties:**

**Castle Rock Edinvar In Association with Places for People Scotland Ltd, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Mr Folajuwon Oladapo, Flat 6, 5 Fisher Place, Edinburgh, EH17 8UY (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (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 it should make an order for payment for the sum of TWENTY TWO THOUSAND TWO HUNDRED AND FIFTY POUNDS (£22,250.00) STERLING**

**Background**

1. An application was made to 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 2017 Rules”) seeking an order for payment in relation to unpaid rent.
2. The application contained:-
  - a copy of the tenancy agreement
  - rent statement

3. There was also correspondence which had been sent to the respondent on 27 July 2022 seeking to amend the sum sued to £23, 259.04.
4. The Applicants' representative, Kenneth Caldwell from Patten and Prentice LLP, appeared on behalf of the Applicant. There was no appearance by the Respondent.
5. Notice of the Hearing and the application had been served on the Respondent by sheriff officers on 30 June 2022. As we were satisfied that the Respondent had been served with notice of today's hearing we were therefore prepared to proceed with this hearing in his absence.

#### Discussion

6. The tribunal considered papers which had been lodged in support of the application, including the tenancy agreement and rent account statement. We agree to amend the sum sued to £23,259.04.
7. The applicant's representative advised the current level of arrears were now in fact £23,976.16. He advised that the respondent had paid his deposit, one full month's rent and one further £500. This was all that had been paid. There was now a significant level of rent arrears due. The tenant had not made any offer to pay the arrears. He had not provided any reason for his failure to pay rent.
8. He advised that there had been a rent increase to the rental payment, he submitted that he believed that the rent increase notices had been served on the tenant, however he advised that he was unable to provide any evidence of this as there had been some issues in emailing the tenant and delivery of those emails. He advised that if the tribunal was not satisfied that the rent increases had been properly notified to the tenant then he would accept a reduced sum based on the rent due as set out in the tenancy agreement. He advised that this reduced sum was £22,250.00.
9. The Applicant's representative had moved for interest and expenses but withdrew that motion as there had been no notice in the application that interest was sought and there was no information about what expenses were.
10. The Applicant confirmed he was seeking an order for payment for £22,250.00.

### Findings in Fact

11. The Tribunal found the following facts established:-
12. There existed a private residential tenancy between the Applicant and the Respondent. It had commenced on 22 July 2019.
13. The tenancy was for the property Flat 6, Fisher Place, Edinburgh.
14. The tenant is Folajuwon Oladapo.
15. The landlord is Castle Rock Edinvar.
16. Clause 8 of the Tenancy Agreement provides that the rent for the property is £650 per calendar month thereafter. It is payable in advance and due on the 1<sup>st</sup> of each month.
17. Clause 10 provided for the method of rent increases.
18. That there was a rent arrears statement submitted for the tenancy showing rent due, rent paid and a cumulative total balance due.
19. There appeared to be rent arrears outstanding on 8 August 2022 totalling at least £22,250.00.

### Reasons for Decision

20. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is a private residential tenancy we are content that we have jurisdiction to deal with this case.
21. The tenancy agreement created obligations between the parties, which included paying rent. The Respondent had failed to pay his rent. There was submitted a rental statement showing the arrears due. The Applicant's agent submitted that the

Respondent was in breach of the condition of the tenancy agreement regarding payment of rent. There was evidence in support of the claim.

22. There was no evidence to demonstrate that the rent increase notice had been served on the tenant. Clause 10 states that the landlord must give the tenant at least three months' notice before any increase can take place. As we had no evidence before us that this notice had been given to the tenant we were not prepared to make any award for the increased sum.

23. On the basis of the evidence submitted and having regard to all papers submitted including the application, we consider that we should make an order for the amended sum sued.

24. We would observe that the Applicant's agent withdraw his motion for expenses and interest.

#### Decision

25. I grant an order in favour of the Applicant for TWENTY TWO THOUSAND TWO HUNDRED AND FIFTY POUNDS (£22,250.00) STERLING 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.**

  
**Melanie Barbour**

8 August 2022

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**Legal Member/Chair**

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**Date**