



**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/23/0486**

**Re: Property at 433B George Street, Aberdeen, AB25 1ER (“the Property”)**

**Parties:**

**Mr Brahmanandan Roy, 1 Murcar Cottages, Bridge of Don, Aberdeen, AB23 8BD (“the Applicant”)**

**Mr Alan Murray, 433B George Street, Aberdeen, AB25 1ER (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal Member) and Eileen Shand (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 £4,205 should be granted to the Applicant from the Respondent.**

**Background**

1. This was a case management discussion in respect of an application by the Applicant dated 11<sup>th</sup> February 2023 for an order for eviction against the Respondent. This was the first calling of the case before a Tribunal.
2. The following documents were lodged:-
  - A copy of the Tenancy Agreement dated 16<sup>th</sup> November 2019
  - Notice to leave
  - Rent statement dated 16<sup>th</sup> March 2023
  - Bank Statements

**The Case Management Discussion (CMD)**

3. 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 attended without representation.
  4. The Respondent did not attend nor was he represented on the teleconference. The Respondent had been served a copy of the application and papers by sheriff officers on 22<sup>nd</sup> June 2023 together with a note of the date and time of the teleconference and details of how to join. The Respondent has been given fair notice and the Tribunal therefore felt it was appropriate and fair to continue in his absence.
- The Applicant advised that he was seeking an order for eviction of Mr Murray who was the tenant in the Property in the conjoined action and an order for rent arrears in this action. He explained that the Respondent had lived in the Property since approximately November 2019 when the tenancy began. He explained that the first arrears accrued in May 2020 when there was an underpayment of rent for that month, and then there was no payment on 16<sup>th</sup> July 2022, rent was paid on 16<sup>th</sup> August 2022 and then nothing thereafter. He advised that the tenant is not paying rent and is refusing to leave the Property and refusing access to the Property. The Applicant explained that he was now in substantial debt himself and now needed to sell the house. He also advised that he believed the Respondent has been offered a property by the council but he has not moved. When asked if he had sent any formal pre action letters Mr Roy confirmed he had not, but stated that when the Respondent had spoken to him about struggling with rent he had allowed some further time. He indicated he thought the Respondent may be an older gentleman but did not know much about his circumstances although due to lack of contact he had contacted the police about concern for his tenant around October last year and they had advised the Applicant the tenant was okay.
  - The Tribunal indicated that the Applicant had sought £3465 in his original application and then had submitted a further rent statement seeking £4205 but had advised that no further rent had been paid, so enquired if the Applicant was seeking to increase the sum sought and advised that if he wished to do so the matter would have to be continued to intimate this on the Respondent. The Applicant indicated he did not wish any delay and so did not want to seek an increase for the sum sought.

### **Findings in Fact**

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 16<sup>th</sup> November 2019.
  2. The Rent due in terms of the lease is £495 per calendar month payable in advance
  3. The tenant is still living in the property so the lease is continuing.
  4. The rent outstanding at 16<sup>th</sup> March 2023 is £4,205.
  5. The Respondent last paid rent on 16<sup>th</sup> August 2022 and no further rent payments have been made.
- **Reasons for Decision**

6. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £495 per month in rent.
7. The Respondent has failed to pay the full rent due. The Respondent has not been in contact with the landlord regarding the non-payment of rent.
8. The Respondent was served notice of this application by sheriff officer on 22<sup>nd</sup> June 2023 and has not made any written representations or attended this CMD. The Applicant provided a revised rent statement confirming rent had increased on 29<sup>th</sup> March 2023 prior to the application being accepted and this has been copied to the Respondent so the Tribunal finds that the Applicant has successfully amended the sum sought.
9. The Tribunal accepts the written evidence and verbal statements made by the Applicant who the Tribunal found clear and credible in his evidence that the rent outstanding as of 16<sup>th</sup> March 2023 is £4205. 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. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

- **Decision**

An order for payment of the sum of £4,205 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.**

**Jan Todd**

---

**Legal Member/Chair**

---

**Date: 31<sup>st</sup> July 2023**