



**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/22/1465**

**Re: Property at Flat 16, 21 Macgill Drive, Edinburgh, EH4 4FD (“the Property”)**

**Parties:**

**Muirhouse Homes Limited, 11 Muirhouse Medway, Edinburgh, EH4 4RW (“the Applicant”)**

**Mr James Guthrie, Flat 16, 21 Macgill Drive, Edinburgh, EH4 4FD (“the Respondent”)**

**Tribunal Members:**

**Petra Hennig-McFatrige (Legal Member) and Leslie Forrest (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the amount of £ 9,135.50 by the Respondent to the Applicant should be granted.**

**Background**

1. The application for an order for payment of rent arrears under S 71 of the Private Housing (Tenancies) (Scotland) Act 2016 arising from a Private Residential Tenancy Agreement between the parties was made by the Applicant on 18 May 2022.
2. The following documents were lodged to support the application:
  - a. Copy tenancy agreement between the parties over the property commencing on 3 March 2020.
  - b. Tenancy rent statement from 3 March 2020 to 1 May 2022
  - c. rent increase letters dated 16 December 2020 and 8 December 2021
3. On 7 July 2022 the application and notification of the Case Management Discussion (CMD) was served by Sheriff Officers on the Respondent. The

Tribunal was satisfied that the Respondent had the required notice of the CMD as set out in Rules 17 (2) and 24 (2) of the Procedural Rules.

4. No representations from the Respondent were received by the Tribunal.
- d. On 2 August 2022 the Applicant lodged an amendment application under rule 14A of the Rules of Procedure with the Tribunal, which was also copied to the Respondent, to increase the sum claimed to £9,135.50. This was accompanied by an updated rent statement from 1 July 2021 to 1 August 2022. The Tribunal allowed the amendment of the application in those terms.

### **Case Management Discussion**

5. The Applicant was represented at the CMD by Ms Sedstrem. The Respondent did not participate in the teleconference.
6. The legal member explained the purpose of the CMD. Ms Sedstrem confirmed that the arrears continued at the level of £9,135.50 as set out in the latest rent statement. No further payments had been received. The rule 14A amendment application had been copied to the Respondent by email and a paper copy had been put through his letterbox at the flat on 2 August 2022. The Applicant had also reminded the Respondent on 9 August 2022 by email of the CMD today and a colleague of Ms Sedstrem had visited the Respondent last Friday. A room had been made available to him today in the Applicant's offices should he have difficulties to participate from his own telephone. The Respondent had been referred to the Applicant's own Financial Inclusion Officer and to the external CHAI service for debt management but had not engaged with either referral. The arrears were not being addressed. The Applicant is now asking for a payment order as all efforts to engage the Respondent in trying to address the arrears have not been successful.

### **Findings in Fact:**

Based on the evidence lodged and the representations of the participants at the CMD the Tribunal makes the following findings in fact:

1. The property was let on a Private Residential Tenancy Agreement commencing on 3 March 2020.
2. The parties were the landlord and tenant of said Tenancy Agreement.
3. The tenancy continues.
4. The monthly rent, payable in advance, was £593.78 as per clause 8 of the tenancy agreement.
5. This was increased to 603.35 from 1 April 2021 and to £612.10 from 1 April 2022 by rent increase letters of 16 December 2020 and 8 December 2021 respectively.
6. Rent arrears accrued as per the Rent Statement up to 1 August 2022.
7. As at 16 August 2022 arrears of £9,135,50 have accrued and payment of that amount is due from the Respondent to the Applicant.

### **Reasons for Decision:**

1. The Tribunal considered that the material facts of the case were not disputed. In terms of Rule 17 of the Rules of Procedure:

#### Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

- (a) in any place where a hearing may be held;
- (b) by videoconference; or
- (c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

- (a) identifying the issues to be resolved;
- (b) identifying what facts are agreed between the parties;
- (c) raising with parties any issues it requires to be addressed;
- (d) discussing what witnesses, documents and other evidence will be required;
- (e) discussing whether or not a hearing is required; and
- (f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

#### 2. However, in terms of Rule 18 of the Rules of Procedure:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

- (a) may make a decision without a hearing if the First-tier Tribunal considers that—
  - (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and
  - (ii) to do so will not be contrary to the interests of the parties; and
- (b) must make a decision without a hearing where the decision relates to—
  - (i) correcting; or
  - (ii) reviewing on a point of law, a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

3. The documents lodged are referred to for their terms and held to be incorporated herein.

4. The Tribunal did not consider that there was any need for a hearing as there had been no representations from the Respondent thus the arrears are not in dispute.

5. The Tribunal makes the decision on the basis of the documents lodged by the Applicant and the information provided by Ms Sedstrem at the CMD.

6. The Tribunal is thus satisfied that the Respondent had entered into a Private Residential Tenancy Agreement with the Applicant for the property. The rent was correctly increased on two occasions during the tenancy duration and rent was paid as set out in the rent statements lodged. No application for a time to pay direction or any other representations were provided by the Respondent. In those circumstances the Tribunal must grant a payment order for the amount of £9,135.50 currently outstanding.

**Decision:**

**The Tribunal grants the order for payment of the amount of £9,135.50 by the Respondent to the Applicant.**

**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.**



**Petra Hennig McFatridge**

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**Legal Member/Chair**

**16 August 2022**

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**Date**