



**Decision 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/20/2302**

**Re: Property at 4 Deacons Road, Kilsyth, G65 0BN (“the Property”)**

**Parties:**

**Mrs Ann Lindsay, 73 Laxton Drive, Lenzie, Glasgow, G66 5LY (“the Applicant”)**

**Miss Laura Sharkey, G/L, 28 Clepington Road, Dundee, DD3 7NX (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**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 together with interest from the date of decision.
2. The application contained:-
  - a copy of the tenancy agreement
  - rental statement
  - correspondence to the respondent
  - correspondence regarding the deposit

3. At today's case management discussion Ms Fraser from The Property Store, appeared for the Applicant. There was no appearance by the Respondent. I was satisfied service on the Respondent had taken place by sheriff officers and I was therefore prepared to proceed with the case management discussion in her absence.

### Discussion

4. The Applicant's Agent advised that the rent arrears were still outstanding although had reduced by £100 since the application had been lodged and were now £1375.96.
5. The legal member noted that the Respondent had submitted correspondence advising that she was repaying the arrears at £50 per month and it appeared that she may have been seeking a time to pay order, although she had not submitted the paperwork in that regard. The Applicant's Agent advised that the Applicant sought open decree. While they acknowledged that the Respondent had made two payments of £50 towards the arrears, the Respondent had previously made offers to repay the arrears and had not adhered to those arrangements. Therefore, open decree was sought.
6. The Applicants' agent advised that the Applicant also sought interest on that sum at a rate of 8% per annum. She advised that the Applicant was entitled to seek interest on the late payment of rent, and this was provided for in the lease agreement at Condition 8.
7. The Applicant sought an order for £1375.96 together with interest at 8%.

### Findings in Fact

8. The Tribunal found the following facts to be established:
  - a) A tenancy agreement was entered into between the Applicant and the Respondent for the property. It commenced on 5 December 2018. It ended on 5 June 2020.
  - b) Clause 8 of the tenancy agreement provided that monthly rent was £400.
  - c) Clause 8 of the tenancy agreement also provided that interest on late payment of rent may be charged by the landlord at 8 % per year from the date on which the rent is due until payment is made.
  - d) The rent account statement showed amounts due each month, amounts received, and rent outstanding and showed arrears as at 23 December 2020.

e) That rent arrears up to 23 December 2020 totalled £1375.96.

#### Reasons for Decision

9. 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, I am content that I have jurisdiction to deal with this case.
10. The tenancy agreement created obligations between the parties including, obligations to pay rent and interest on unpaid rent. The Respondent had failed to pay her rent.
11. The Applicant's Agent sought interest at 8% per annum and referred me to the tenancy agreement, where it is noted that the landlord is entitled to seek interest on unpaid rent.
12. Based on the evidence submitted and having regard to the papers submitted including the application, further papers received from the Applicant and the Respondent, I consider that I should make a payment order of £1375.96 with interest to be paid from the date of the order at a rate of 8% per annum.

#### Decision

13. I grant an order in favour of the Applicant for the Sum of ONE THOUSAND THREE HUNDRED AND SEVENTY-FIVE POUNDS NINETY SIX PENCE (£1,375.96) STERLING with Interest thereon at the rate of 8% per annum running from the date of the decision of the First-tier Tribunal, being 15 January 2021 until payment.

#### **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

**Melanie Barbour**

15 January 2021

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**Legal Member/Chair**

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**Date**