



**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/20/0895**

**Re: Property at 12 Mayfield Boulevard, East Kilbride, G75 9QD (“the Property”)**

**Parties:**

**Mr Faisal Mahmood, 3 Canford Close, Enfield, EN2 8QN (“the Applicant”)**

**Mr Zaighum Ahmad, Mr Ali Zafar, Ms Madiha Saher, 12 Mayfield Boulevard, East Kilbride, G75 9QD; 12 Mayfield Boulevard, East Kilbride, G75 9QD; 12 Mayfield Boulevard, East Kilbride, G75 9QD (“the Respondents”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member)**

**Decision (in absence of the Respondents Ali Zafar and Madiha Saher)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in favour of the Applicant be made against the Respondents in the sum of £1385**

**Background**

This is an application for a payment order first lodged with the Tribunal on 12 March 2020. The Application was accepted by the Tribunal on 15 April 2020 and a case management discussion was fixed for 7 August 2020.

The application called for a case management discussion along with a related application (HPC/EV/20/0891). The case management discussion was held by remote teleconference call. The teleconference was attended on behalf of the Applicant by Miss Caldwell from TC Young solicitors and Mr Coyle, solicitor of Austin Lafferty Solicitors for the Respondent Zaighum Ahmad. There was no appearance by the two remaining Respondents Ali Zafar and Madiha Saher, nor were they represented. The Tribunal had sight of executions of service of all the papers relating to the application which had been served by sheriff officers on July 6th, 2020, by leaving the papers in the hands of the Respondent Madiha Saher. Miss Caldwell for the Applicant moved

the Tribunal to proceed in the absence of the respondents Ali Zafar and Madiha Saher. The Tribunal was prepared to proceed in their absence given that all of the papers had been properly served on the Respondents and given that the tribunal rules of procedure allowed for this.

The Tribunal had sight of the application, paper apart, tenancy agreement, rent statement and a tenant reconciliation document.

The original application for a payment order sought a payment of £2785 in respect of arrears of rent at the property. Miss Caldwell for the Applicant indicated that in terms of the tenant reconciliation document lodged, the arrears now stood at £1385 and this was the sum she was seeking. Mr Coyle for the Respondent moved that the Application be continued as his client the Respondent Zaighum Ahmad had agreed with the other Respondents that he would clear the arrears by 16<sup>th</sup> August 2020. It was not disputed that the sum being sought was lawfully due and it represented almost a month's rent which was due on 16<sup>th</sup> July 2020. Mr Coyle argued that the order was not necessary as his client would clear the arrears by 16<sup>th</sup> August. Miss Caldwell for the Applicant opposed a continuation and asked that an order be granted as the rent arrears were due contractually in terms of the tenancy agreement and indicated that her client was not prepared to accept that the arrears would be cleared just on the assertion on behalf of the Respondent Mr Ahmad. She pointed to what she described as a pattern of late payments and submitted that it was not the function of the Tribunal to monitor payments. She also pointed out that even if Mr Ahmad cleared the arrears by 16<sup>th</sup> August another rent payment fell due on that date so arrears could build up again.

Miss Caldwell was not aware of the Respondents being in receipt of any benefits or of any delay or failure in payment of a benefit which may have contributed to the arrears and Mr Coyle did not seek to suggest that benefit payments were involved in the arrears.

Having considered the circumstances in full the Tribunal did not consider that it was appropriate to continue the application to allow a possible payment of rent arrears and refused a continuation of the Application.

The Tribunal considered that it had sufficient information to make an order and that the procedure had been fair.

The Tribunal granted a payment order in the sum of £1385.

### **Findings in Fact**

1. The Applicant entered into a Private Residential Tenancy with the Respondents at the property with effect from 16 November 2018.
2. The rent agreed for the property is £1395 payable monthly in advance.
3. As at the date of the case management discussion ( 7<sup>th</sup> August 2020) the arrears of rent are £ 1385.

4.The rent arrears are lawfully due and not connected to the payment of any benefit.

### **Reasons for Decision**

The Tribunal was satisfied that the arrears of rent are lawfully due and it was appropriate in the circumstances to make a payment order against the Respondents in the sum of £1385.

### **Decision**

The Tribunal made a payment order in the sum of £1385 in favour of the Applicant and against the Respondents.

### **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.**

**Valerie Bremner**

7<sup>th</sup> August 2020

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**Legal Member/Chair**

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**Date**