

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/CV/21/2183

Re: Property at 26 Arran Drive, Cumnock, KA18 2BP (“the Property”)

Parties:

Mr Kevin Wright, Mrs Sally Wright, 32 Endowood Road, Millhouses, Sheffield, S7 2LZ (“the applicants”)

Mrs Eileen Cameron, residing formerly at 26 Arran Drive, Cumnock, KA18 2BP and whose current whereabouts are unknown to the tribunal (“the respondent”)

Tribunal Members:

David Preston (Legal Member) and Gordon Laurie (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 payment by the respondent to the applicant of the sum of Four thousand three hundred and seventy-five pounds (£4375) should be made.

Background:

1. By application dated 7 September 2021 the applicants applied for an order for payment in respect of arrears of rent amounting to £3625.
2. Following the Case Management Discussion (CMD) on 9 November 2021 a hearing was scheduled to take place on 11 January 2022 at 10 AM. The respondent was present at the CMD with her daughter and received notification of the date and time of the hearing. In addition, the respondent was advised of the date and time of the hearing by Letter of Intimation dated 24 November 2021.
3. On 11 January 2022 at 10 AM the hearing was duly convened. Present at that time was Mr Stephen Spence, Lomond Estate Agents Ltd representing the applicants. There was no appearance for or on behalf of the respondent and the tribunal delayed the start of the hearing until 10:10 AM by which time there was still no appearance by or on behalf of the respondent. The tribunal was satisfied that the

respondent had voluntarily waived her right to be present or represented at the hearing and determined to proceed with the hearing in her absence.

4. At the CMD the sum sought was increased to £4375, which was intimated to the respondent at that time. By email application dated 28 December 2021 the applicants asked that the sum sought be increased further to £4609 to cover arrears to 15 December 2021, the date of eviction when the respondent vacated the property. The applicants provided no forwarding address for the respondents and the increased sum sought could therefore not be served upon the respondent.

Findings in Fact

5. The parties entered into a Private Residential Tenancy Agreement dated 1 November 2019 that commenced on that date at a rent of £375 per month.
6. The respondent accrued arrears of rent amounting to £4375 as at 1 November 2021.

Reasons for Decision:

7. The tribunal was satisfied that notice of the hearing had been validly served on the respondent and that the evidence demonstrated that the arrears of rent amounted to the sum sought and accordingly determined to issue the order for payment.
8. The tribunal noted that at the CMD the respondent made representations regarding the state of repair of the property and indicated that the rent had been retained pending repairs. The respondent was advised that evidence of the state of repair of the property would require to be provided to a full hearing. She was also instructed to provide evidence that she had intimated to the landlords that the rent was being withheld and was being held in a separate bank account. She had failed to produce the requested evidence and had failed to appear at the hearing to speak to the state of repair of the property.
9. In the absence of the respondent and any representations from her the tribunal accepted the rent statements submitted on behalf of the applicants and determined that an Order for Payment in the sum of £4375 should be made.

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.

David Preston

11 January 2022