



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/22/2956**

**Re: Property at No 4 Cottage, Middlebank Farm, Errol, PH2 7SX (“the Property”)**

**Parties:**

**Mrs Patricia Johnston, Middlebank Farm, Errol, PH2 7SX (“the Applicant”)**

**Mrs Dawn Sime, Mr Frank Sime, Gardener's Cottage, Inchmartin Estate, Inchtute, PH14 9QQ (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

**Decision in absence of the Respondents**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment for the sum of £14,850 should be granted against the Respondents in favour of the Applicant.**

**Background**

1. The Applicant seeks a payment order in relation to unpaid rent. A tenancy agreement and rent statement were lodged in support of the application.
2. A copy of the application and supporting documents were served on the Respondents at their new address by Sheriff Officer on 19 December 2022. All parties were advised that a Case Management Discussion (“CMD”) would take place on 9 February 2023 at 10am by telephone conference call. They were provided with a telephone number and passcode and advised that they were required to participate. On 2 February 2023, the Applicant’s solicitor lodged an updated rent statement. Due to an administrative oversight, this was not sent out to the Respondents prior to the CMD.

3. The CMD took place on 9 February 2023 at 10am. The Applicant was represented by Ms Buchanan, solicitor. The Respondents did not participate and were not represented. They did not contact the Tribunal in advance of the CMD or lodge written representations.
4. The Tribunal noted that the Sheriff Officers had not served the application at the property, but at a new address. Ms Buchanan told the Tribunal that the Applicant had become aware that the Respondents did not appear to be occupying the property in early September 2022. She had been to the property and noted that the blinds were down, and no cars were parked outside. Neighbours said that they had not seen the Respondents recently. The Applicant continued to check on the property and noted that the grass was not being cut. Neighbours reported that no one was staying at the property overnight. This has remained the position since that time, but the Respondents have not been in touch to say that they have moved out or returned the keys.
5. Ms Buchanan referred the Tribunal to the rent statement. She stated that the arrears are now £14,850 with no payments since August 2021. She stated that she wished to amend the application to reflect this increase and was seeking a payment order for the sum currently due. The Tribunal noted that the updated rent statement had been submitted on 2 February 2023, seven days before the CMD as required by the Procedure Rules. However, it had not been sent to the Respondents prior to the CMD. Following discussion, the Tribunal confirmed that they would allow the statement to be received and the application amended to the sum of £14,850. However, an order for payment in relation to the increased sum could not be granted until the rent statement had been issued to the Respondents. Ms Buchanan requested a continuation of the CMD to a later date so that the Respondents could be notified. The Tribunal determined that the CMD should be adjourned. The Tribunal also granted an eviction order in relation to a related case under Chamber reference HPC/EV/22/2955.
6. The parties were notified that a further CMD would take place on 4 May 2023 at 10am by telephone conference call. Prior to the CMD the Applicant submitted an updated rent statement. The CMD took place on 4 May 2023 at 10am. The Applicant was represented by Ms Connell. The Respondents did not participate.

## **The CMD**

7. Ms Connell told the Tribunal that the Applicant has recovered possession of the property since the last CMD. She stated that the sum of £14850 is still outstanding and that a payment order is sought for this sum. She was unable to confirm when the property was recovered or whether the Applicant recovered the deposit paid at the start of the tenancy.

## **Findings in Fact**

8. The Applicant is the owner and landlord of the property.
9. The Respondents are the former tenants of the property.
10. The Respondents were due to pay rent at the rate of ££675 per month.
11. The Applicant has recovered possession of the property.
12. The Respondents owe the sum of £14,850 in unpaid rent to the Applicant.

## **Reasons for Decision**

13. The Respondents did not participate in either CMD or advise the Tribunal if the application is disputed. From the information provided at the CMDs by the Applicant, the documents lodged with the application and the updated rent statement, the Legal Member is satisfied that the Respondents have incurred rent arrears of £14,850 for the period up to 17 February 2023. No payments have been made to the rent account since that date. The Legal Member is satisfied that the Applicant is entitled to an order for payment for the sum of £14,850.

## **Decision**

14. The Tribunal determines that an order for a payment order should be granted 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.**

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**Josephine Bonnar, Legal Member**

**4 May 2023**

