



**Decision with Statement of Reasons of 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**

**Chamber Ref: FTS/HPC/CV/20/0523**

**Re: Property at Flat 3/1, 6A South Street, Greenock, PA16 8TX (“the Property”)**

**Parties:**

**Mr Kevin Cosgrove, Mr Paul Cosgrove, Mr Steven Gosgrove, Ms Louise Cosgrove, Inverclyde Letting Agency, West Renfrew House, 26 Brougham Street, Greenock, PA16 8AD (“the Applicants”)**

**Ms Anni McColl, Flat 3/1, 6A South Street, Greenock, PA16 8TX (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum sought by the Applicants as rent arrears of £1,551.71, was lawfully due from the Respondent, and granted an order for payment of that sum, by the Respondent, to the Applicants.**

**Background**

1. In March 2019 the Applicants let the Property to the Respondent under a private residential tenancy. The parties entered into a written tenancy agreement. That agreement states, in clause 8, that the rent payable in terms of the tenancy agreement is £400 per calendar month.
2. By an application dated 12 February 2020 (“the application”), the Applicants sought an order for payment of £1,551.71, being rent arrears.
3. The application as lodged was made under rule 70 of the Tribunal Regulations. By email dated 10 July 2020, the Applicants sought to amend their application to allow it to be considered under rule 111 of the Tribunal Regulations. The

Tribunal accepted the Applicant's submission dated 10 July 2020 as an application to amend the original application in terms of rule 14A of the Tribunal Regulations. As the only difference between the two rules referred to was in relation to the form of tenancy, the Tribunal accepted that there was no prejudice to the Respondent in allowing the Applicants to amend their application to be considered as an application under rule 111 of the regulations. There being no objection from the Respondent, the Tribunal therefore consented to the amendment of the application so that it is now being considered in terms of rule 111 of the Tribunal Regulations.

4. Following delay caused by the Covid 19 pandemic, a case management discussion (CMD) was fixed in respect of the amended payment application.

#### The CMD

5. The CMD took place by telephone conference on 22 July 2020. The Applicants were represented at the CMD by Mrs Alison Hatrick of Inverclyde Letting Agency. The Respondent also joined the CMD call. The Respondent had not made a written representation to the Tribunal in advance of the CMD.

The Tribunal was able to consider:

- a. The terms of the tenancy agreement between the parties dated 15 March 2019
  - b. Statement of rent and arrears lodged by the Applicants showing total rent arrears due by the Respondent as at 1 July 2020 in the sum of £1,972.72.
6. At the CMD the Respondent confirmed that she had sight of the updated rent statement and that she accepted the figures on that statement. She accepted that the current rent arrears stood at the sum of £1,972.72 and that the sum of £1,551.71 was due by her as at 15 January 2020.
  7. The Applicants' representative explained that the Department of Work and Pensions ("the DWP") had started to make payments of current rent on behalf of the Respondent. Those payments had started in May 2020. The DWP had also made some payments towards the arrears of rent which the tenant had accrued. The payments which had been received to date from the DWP were included on the rent statement. Whilst the Applicants accepted some rent had been paid after the date upon which the application had been raised, the level of arrears, as at the date of the CMD, continued to be in excess of the sum sought in terms of the application. The Applicants therefore sought to insist upon their application for the order in sum of £1,551.71 being the rent arrears due as at 15 January 2020 and being the sum sought in terms of their application to the Tribunal.
  8. The Respondent accepted the rent arrears were due. She explained that she had hoped to be successful in an application for funding from SACRO to clear the arrears. She made reference to certain repairs which she believed the landlord required to carry out to the property. She made reference to some recent personal difficulties that she had. She had not lodged any application for

time to pay any sum due to the Applicant. The Tribunal sought to establish whether the Respondent wished to obtain advice from a solicitor or other qualified party to assist her in relation to these matters. The Respondent was clear that she did not wish to seek any such advice or representation. During the conference call the Respondent disconnected from the conference call and thereafter did not re-join the call.

9. Under rule 17(4) of the schedule to the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the Procedure Rules) the First-Tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Applicants asked the Tribunal to grant an order for payment against the Respondent in favour of the Applicants.

#### Findings in fact, and in fact and law; reasons for decision

10. The Respondent accepts that she had rent arrears which stood at £1,972.72 as at 1 July 2020.
11. The Respondent further accept that the rent due as at 15 January 2020 (being the rent due date immediately prior to the application first being made) was £1,551.71.
12. The application made relates to rent due and outstanding both as at 15 January 2020 and as at 22 July 2020 in the sum of £1,551.71. It is accepted by the Respondent that this sum is due.

#### Decision

13. The Tribunal accordingly granted an order for payment in the sum of £1,551.71.

#### **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.**

Andrew Cowan

22 July 2020

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Legal Member/Chair

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Date