



**Decision with Statement of Reasons 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/21/2468**

**Re: Property at 60 Macdonald Terrace, Lochgilphead, Argyll, PA31 8TE (“the Property”)**

**Parties:**

**Ms Melanie Lowndes, 333D Kingston Road, London, SW10 8JX (“the Applicant”)**

**Mr Tyler Taylor-Smith, Ms Laura Downie, 24 Dunselma Road, Strone, Dunoon, Argyll, PA23 8RT; 2 Lochfyne Terrace, Ardrishaig, PA30 8EG (“the Respondent”)**

**Tribunal Members:**

**Anne Mathie (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 in the sum of £4856.91 be made against the Respondents jointly and severally in respect of rent arrears and costs arising out of breach of contract.**

**Background**

1. An application was lodged dated 8 October 2021 in terms of Chamber Rule 111 being an application for civil proceedings in relation to a private residential tenancy. Along with the application form, the Applicant submitted the following documents:

- A copy of the private residential tenancy agreement dated 17 March 2020
- Rent statement showing rent owing since previous Tribunal Order
- Letter dated 15 April 2021 to Respondents
- Letter dated 27 April 2021 to Respondents
- Invoices dated 22 July 2021 and 20 August 2021 from Stirling Park
- Receipt from AADD Locksmiths for £257

2. In terms of the application form the Applicant sought a payment order in the sum of £4856.91 made up of rent arrears and other expenses.
3. The Applicant advised in her application that she had previously made a successful application for an order for rent arrears in the sum of £3600 up to 21 December 2020 from the Housing and Property Chamber (ref FTS/HPC/CV/20/2811).
4. The Applicant also advised in her application that the deposit of £519 had previously been paid in full to her which had been used towards the costs of restoring the Property to a rentable condition.
5. This was followed by the Applicant lodging a letter from HSBC dated 7 October 2021 confirming there had been no credits from either Respondent between 22 March 2020 and 31 August 2021.
6. The Tribunal wrote to the Applicant on 9 November 2021 seeking an address for both Respondents and looking for an explanation of the legal basis on which a payment order was being sought for eviction expenses.
7. The Applicant replied to say she had instructed a track and trace and that the legal basis for seeking a payment order for the eviction expenses was that the Respondents had breached the tenancy agreement by pretending to be a couple who intended to live together at the Property. Clause 2.28.1 of the Tenancy Agreement provides:

*“To indemnify and hold harmless the Landlord and Agent against all reasonable costs and expenses arising from any breach on the part of the Tenant of this agreement.”*
8. There was subsequently correspondence between the Tribunal and the Applicant re an extension of time for obtaining the Respondent's address.
9. On 13 December 2021 the Applicant emailed the Tribunal with an address for Laura Downie which had been identified by track and trace.
10. The application was accepted and set down for a case management discussion today.
11. Details of the application and of the case management discussion were served on the Respondents by Sheriff Officers. The Respondents were invited to make written representations by 10 February 2022. They were also advised as follows:

*“The tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. If you do not take part in the case management discussion, this will not stop a*

*decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.”*

12. The Applicant contacted the Tribunal to advise that she had received information that the Respondent, Laura Downie, now resided at the address above. Sheriff Officers re-served notice of the application and case management discussion on the Respondent, Laura Downie, at the above address.

13. There were no written representations submitted by either of the Respondents.

#### The Case Management Discussion

14. The case management discussion took place today by teleconference. The Applicant represented herself. There was no appearance by or on behalf of the Respondents. The Applicant explained her position and that she was seeking a payment order in the sum of £4856.91 made up of remaining rent arrears until the Respondent vacated the Property on 18 August 2021 and the costs associated with eviction as a result of a breach of contract by the Respondents and in terms of clause 2.28 of the Tenancy Agreement.

#### Findings in Fact

15. The Applicant and Respondents had entered into a Tenancy Agreement from 22 March 2020.

16. In terms of the Tenancy Agreement rent was due to be paid at the rate of £450 per month.

17. A previous payment order had been made by the Tribunal covering arrears up to and including 21 December 2020.

18. The remaining rent arrears outstanding were in the sum of £3540.

19. Clause 2.28 of the Tenancy Agreement renders the Respondents liable for any expenses arising out of a breach of the Tenancy Agreement.

20. The costs claimed for the eviction process and new locks was in the sum of £1316.91.

#### Reasons for Decision

21. In reaching its decision, the Tribunal took account of the papers and documents before it and the oral submissions of the Applicant at the case management discussion. There was nothing challenging the information before the Tribunal.

### Decision

22. The First-tier Tribunal for Scotland, Housing and Property Chamber, grants a payment order in favour of the Applicant against the Respondents, jointly and severally, in the sum of £4856.91 made up of the balance of rent arrears and vouched expenses arising out of a breach of the Tenancy Agreement.

### **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.**

  
**Anne Mathie**

25 February 2022

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**Legal Member/Chair**

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**Date**