

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 70(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/21/3173

Re: Property at Flat 1/2, 201 Castlemilk Drive, Glasgow, G45 9JU (“the Property”)

Parties:

Mr Stephen Bowley, 157 Poole Lane, Bournemouth, BH11 9EA (“the Applicant”)

Mr Kenneth Brown, Miss Amy Byrne, aka Jaza Byrne, Flat 1/2, 201 Castlemilk Drive, Glasgow, G45 9JU; 2/2 210 Tormusk Road, Glasgow, G45 0DJ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the First Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order in the sum of Three thousand nine hundred and fifty five pounds (£3955) Sterling

- 1 The Applicants applied to the Tribunal for an order for payment of outstanding rent arrears in the sum of £20,020. In support of the application the Applicant provided the following documentation:-
 - (i) Copy Tenancy Agreements between the parties dated 28th January 2015 and 26th January 2019; and
 - (ii) Rent Statement.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 11 March 2022, to take place by teleconference due to the restrictions imposed by the Covid-19 pandemic. A copy of the application paperwork together with

notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to both Respondents by Sheriff Officers.

- 3 The Second Respondent subsequently submitted a written response to the Tribunal, which was received on 8 March 2022. In summary the Second Respondent outlined the history of the tenancy and confirmed that the First Respondent had vacated in August 2019. She had since struggled to obtain a tenancy agreement in her own name in order to claim benefits and this had caused financial difficulties. The Second Respondent confirmed that she had vacated the property in September 2020 and had moved to Dundee. She had returned the keys and her notice to leave to the Applicant's letting agent at that time. She accepted rent arrears were due, and stated she would be in a position to make payments of £120 per month, but she did not accept the sum sought by the Applicant as she did not understand it.

Case Management Discussion

- 4 The Case Management Discussion took place by teleconference on 11 March 2022. The Applicant was represented by Mrs Claire Young, Solicitor from TC Young LLP. The Second Respondent was present. The First Respondent was not in attendance. Having noted that the First Respondent had been served with appropriate notice of the Case Management Discussion the Tribunal determined to proceed in his absence.
- 5 The Legal Member explained the purpose of the Case Management Discussion and asked Mrs Mullen and the Second Respondent to address the Tribunal on their respective positions regarding the application.
- 6 Mrs Mullen explained that the Applicant would be prepared to reduce the sum sought to £11,690 which was the debt owing in September 2020. She noted this was the month the Second Respondent had stated she had left the property. The Second Respondent queried this sum and noted that there appeared to be an error on the rent statement. There were duplicate charges for the year 2020 which resulted in an inflated figure. The Tribunal allowed an adjournment for Mrs Mullen to take instructions from the Applicant on this point. Mrs Mullen subsequently confirmed that the sum sought by the Applicant was £3955 and he would be willing to accept payments of £120 per month. The Second Respondent confirmed she would be happy to agree to this arrangement, and an order being granted by the Tribunal on that basis.

Findings in Fact and Law

- 7 The parties entered into a Private Residential Tenancy Agreement dated 24 June 2019.

- 8 In terms of the said tenancy agreement the Respondents agreed to make payment of rent at the rate of £595 per month.
- 9 As at 25 September 2020, arrears in the sum of £3955 were outstanding.
- 10 The Respondents are liable to make payment to the Applicant in the sum of £3955.

Reasons for Decision

- 11 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. The First Respondent had been served with the application paperwork and had chosen not to participate in the proceedings. On that basis the Tribunal was content to determine the application in his absence.
- 12 Having clarified the error in the rent statement, the Tribunal accepted that rent arrears of £3955 were due and fell to be paid by the Respondents. The Second Respondent had confirmed her acceptance of this figure. The Tribunal further noted that both the Applicant and Second Respondent were content with a time to pay order in the sum of £120 per month.
- 13 The Tribunal therefore determined to make an order for payment against the Respondents in the sum of £3955, with a time to pay direction in respect of the Second Respondent at the rate of £120 per month.

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.


Ruth O'Hare

Legal Member/Chair

15 March 2022
Date