

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(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”)**

**Chamber Ref: FTS/HPC/CV/22/3765**

**Re: 74 Braes of Gray Road, Dundee, DD2 5FQ  
 (“the Property”)**

**Parties:**

**Mr Kanagasabai Kulenthiran and Mrs Savithri Kulenthiran, both of 45 Cherry Hills, Watford, Hertfordshire, WD19 6DL  
 (“the Applicants”)**

**Mr Connor Airlie and Miss Michaela Elizabeth Amanda Chaplin, both formerly of 74 Braes of Gray Road, Dundee, DD2 5FQ  
 (“the Respondents”)**

**Tribunal Members:**

**Pamela Woodman (Legal Member) and Sandra Brydon (Ordinary Member)**

**Present:**

The case management discussion in relation to case reference FTS/HPC/CV/22/3765 took place at 10am on Monday 13 February 2023 by teleconference call (“**the CMD**”). Mr Kulenthiran of the Applicants was present and the Applicants were represented by Melissa Coleman (“**the Applicants’ Representative**”) of Struan Baptie Property Management Ltd. The Respondents were not present nor represented at the CMD. The clerk to the Tribunal was Leah Graham.

**DECISION**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:**

**BACKGROUND**

1. The Applicant made an application to the Tribunal under section 71(1) of the 2016 Act and in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“**HPC Rules**”) which are set out in the

schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 111 (*Application for civil proceedings in relation to a private residential tenancy*) of the HPC Rules.

2. The order sought from the Tribunal was a payment order against the Respondents in respect of the Property.
3. The application was dated 13 October 2022, requested a payment order for the sum of £3,575, and was accompanied by:
  - a. the private residential tenancy agreement between the Applicants and the Respondents dated 18 August 2021 ("**Tenancy Agreement**").
  - b. a rental statement ("**First Rental Statement**") which stated that, as at 23 September 2022, the arrears of rent were £3,575.
4. An updated rental statement ("**Second Rental Statement**") was provided on 8 November 2022 which stated that, as at 23 October 2022, the arrears of rent were £4,470.
5. A notice of acceptance of the application was issued dated 10 November 2022 under rule 9 of the HPC Rules.
6. The Tribunal had received a copy of the certificates of intimation issued by William Wywalec (sheriff officer) of Walker Love which confirmed that the letters (in respect of the case with references FTS/HPC/EV/22/3763 and FTS/HPC/CV/22/3765) with enclosures from the Tribunal had been served on each of the Respondents on 15 December 2022 by depositing the letter within the letterbox of the Property. These letters notified the Respondents of the date and time of the CMD and requested written representations by 4 January 2023 among other things.
7. No written representations were provided by either Respondent.
8. Further updated rental statements were provided (a) on 5 January 2023 which stated that, as at 23 December 2023, the arrears of rent were £4,470 ("**the Third Rental Statement**") and (b) on 27 January 2023 which stated that, as at 23 January 2023, the arrears of rent were £4,470 ("**the Fourth Rental Statement**").
9. The Applicant's Representative notified the Tribunal administration team by e-mail on 7 February 2023 that the Respondents had vacated the Property and that the tenancy had terminated on 2 February 2023. At the same time, she also provided a further updated rental statement ("**Final Rental Statement**") which stated that, as at 2 February 2023, the arrears of rent were £3,898.67. The Final Rental Statement had been adjusted to take account of rent for the period to (and including) 2 February 2023, rather than the full amount for the period from 23 January 2023 to 22 February 2023, the apportionment being £323.67 (which equated to 11 days' rent at a rate of £10,740 per annum, which equated to £895 per calendar month).

10. The Tribunal noted that the Applicants were the registered landlords of the Property.

11. The Tribunal also noted that the Applicants were the registered proprietors of the Property (title number ANG80753).

12. This decision arises out of the CMD.

### **PROCEEDINGS, NAMELY THE CMD**

13. The Applicants' Representative confirmed that the application in relation to case reference FTS/HPC/EV/22/3763 had been withdrawn as a result of the Respondents having vacated the Property on 2 February 2023.

14. Whilst the Final Rental Statement had been provided to the Tribunal less than 14 days prior to the date of the CMD, it stated that the amount of rent arrears was less than that set out in the Second Rental Statement, the Third Rental Statement and the Fourth Rental Statement and so the Tribunal was willing to accept it and allowed the amendment of the sum claimed to £3,898.67.

15. The Applicant's Representative confirmed that no further payment had been received from the Respondents after 7 January 2023 and that payment had been taken into account in the Final Rental Statement.

16. The Applicant's Representative also confirmed that the tenancy deposit was still held by a tenancy deposit scheme and was in the amount of £945.

### **FINDING IN FACT**

17. In terms of clause 8 of the Tenancy Agreement, the Respondents were obliged to pay rent at the rate of £895 per calendar month in advance on or before the 23<sup>rd</sup> of each calendar month.

18. In terms of clause 1 of the Tenancy Agreement, each Respondent was "jointly and severally liable for all of the obligations on the Tenant" under that agreement.

### **REASON FOR DECISION**

19. Each of the Respondents had been given an opportunity to make representations and/or attend the CMD but had failed to do so.

20. Accordingly, the Tribunal found, on the balance of probabilities, that £3,898.67 was due and payable by the Respondents to the Applicants.

### **DECISION**

21. The Tribunal granted an order for payment against the Respondents (jointly and severally) in favour of the Applicants in the amount of £3,898.67.

## Right of Appeal

In terms of Section 46 of the Tribunals (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.

Pamela Woodman

*13 February 2023*

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Chair

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Date