



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 (“the 2014 Act”) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)**

**Chamber Ref: FTS/HPC/CV/20/1029**

**Re: Property at Flat 1/1, 48 Bonnyrigg Drive, Eastwood, Glasgow, G43 1HP (“the Property”)**

**Parties:**

**Ms Naseem Ali, 31 Hunter Grove, Law Estates, Bathgate, EH48 1NN (“the Applicant”)**

**Ms Michelle Massey, Flat 1/1, 48 Bonnyrigg Drive, Eastwood, Glasgow, G43 1HP (“the Respondent”)**

**Tribunal Members:**

**Anne Mathie (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that the Respondent should pay to the Applicant the sum of FIVE THOUSAND FIVE HUNDRED POUNDS (£5500) STERLING; and made an Order for Payment in respect of the said sum.**

- **Background**

This is an application made in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Tribunal Rules”) being an application for a payment order in respect of rent arrears. An application was made dated 2 April 2020 seeking a payment order in the sum of £2800. Along with the application, the following documents were lodged:

- A copy of the Easy Read Notes for the Scottish Government Model Private Residential Tenancy Agreement
- A copy of the Private Residential Tenancy Agreement between the parties
- Some bank statements

- A rent statement dated 1 April 2020
- A copy of correspondence between the parties in respect of the rent arrears
- A copy of the Notice to Leave
- A copy of the section 11 Notice
- A letter of authority from the owner of the Property authorising his daughters to act

The applicant had emailed the Tribunal asking that her sister, Mrs Shanaz Ali represent her.

The application was accepted and assigned to a Case Management Discussion by teleconference on 7 August 2020.

Written representations were lodged on behalf of the respondent by Govan Law Centre.

An up-to-date rent statement had been emailed by the applicant's representative but was only received by the legal member after the Case Management Discussion had concluded.

The Applicant's representative contacted the Tribunal with the required documents on 4 September 2020.

The Respondent contacted the Tribunal by email on the 18 September 2020 to advise that *"I am not sure there is a requirement for this morning's call. I will not be defending an eviction action from the property and intend to have keys back on the 8th of October. Only points that may require discussion is the ongoing issues with environmental problems with the flat and resolution of these before someone else is allow to occupy the flat. Also how much, if any, rent was legitimately held back in lieu of these issues"*

The Tribunal responded to say that the Respondent was advised to still attend the telephone hearing.

- The Hearing

The hearing took place by teleconference today due to the Covid-19 outbreak. The Applicant's representative, Shanaz Ali, and the Respondent both joined the call. The Tribunal considered the evidence before it comprising of documents and oral submissions from both parties.

- Findings in Fact

The Property is the subject of a Private Residential Tenancy agreement between parties commencing on 8 November 2019.

In terms of the tenancy agreement rent was payable at the rate of £600 per calendar month.

Notwithstanding the terms of the tenancy agreement, rent was payable on the 8 of each month.

Rent arrears were outstanding at the date of the hearing in the sum of £5500 and this was agreed by the Respondent.

- **Reasons for Decision**

Even although evidence was given by the Respondent in relation to defects in the condition of the Property, the Tribunal were of the view that the Applicant had moved to rectify these defects as soon as practicable and no abatement of rent was appropriate in these circumstances.

- **Decision**

The Tribunal decided to grant the payment order as detailed above.

### **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

**Legal Member/Chair**

**18<sup>th</sup> September 2020**  
**Date**

Anne Mathie