



**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/23/4591**

**Re: Property at Flat 0/1, 4 Binnie Street, Gourock, Inverclyde, PA19 1JS (“the Property”)**

**Parties:**

**Mrs Fiona McIver-Wilson and Mr John Wilson, 68 Reservoir Road, Gourock, Inverclyde, PA19 1YQ (“the Applicants”)**

**Mr Andrew Waddell (SBA), previously residing at Flat 0/1, 4 Binnie Street, Gourock, Inverclyde, PA19 1JS and whose current whereabouts are unknown (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicants in the sum of THREE THOUSAND TWO HUNDRED AND FORTY-FIVE POUNDS AND EIGHTY-EIGHT PENCE (£3245.88) STERLING. The order for payment will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

**Background**

- 1. This is an action for recovery of rent arrears raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 28 December 2022, a rent statement to November 2023 and Inventory Reports – Incoming and Vacating.**

3. On 6 March 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 17 April 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 8 May 2024. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 24 May 2024. This paperwork was unable to be served on the Respondent as his whereabouts were unknown. The application was thereafter served on the Respondent by advertisement in terms of Rule 6A of the Rules. A copy of the Execution of Service was received by the Tribunal administration and placed before the Tribunal.
5. The Respondent did not lodge any written representations by 8 May 2024.

### **Case Management Discussion**

6. The Tribunal proceeded with a CMD on 24 May 2024 by way of teleconference. Mr Bowman from Bowman Rebecchi, letting agents appeared for the Applicants. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 28 December 2022, the rent statement to November 2023 and Inventory Reports – Incoming and Vacating. The Tribunal considered these documents.
8. Mr Bowman explained to the Tribunal that when the tenancy had ended the Respondent had left rent arrears nearer £4000. There were some issues with the state of the Property with reference to the Inventory Reports. The Applicants had the full deposit of £850 returned to them. Mr Bowman asked the Tribunal to grant a payment order for £3245.88 deposit which took account of the deposit being applied.

### **Reasons for Decision**

9. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent

statement. Further the Tribunal considered the submissions made by Mr Bowman.

10. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen and stood at the end of the tenancy. The Applicants had produced evidence of non-payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Bowman's submissions that an order for payment in favour of the Applicants be granted.

### **Decision**

11. The Tribunal granted an order for payment of £3245.88 in favour of the Applicants.

### **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.**

  
**S Evans**

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Legal Member

**24 May 2024**

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Date