



**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/24/1354**

**Re: Property at 146 Townhill Road, Hamilton, ML3 9RN (“the Property”)**

**Parties:**

**Mr Norel Mireca and Mrs Christina Mireca, 44 Burnsknowe, Livingston Deans, EH54 8BQ (“the Applicants”)**

**Mr Valeriu Damian and Ms Christina Petcu, 146 Townhill Road, Hamilton, ML3 9RN (“the Respondents”)**

**Tribunal Members:**

**Shirley Evans (Legal Member) and Tony Cain (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondents in favour of the Applicants in the sum of THIRTY-FOUR THOUSAND (£34 000) 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 Respondents.**

**Background**

- 1. This is an action for rent arrears and interest 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 7 September 2018, and a rent statement showing arrears of £31000 to 7 March 2024.**

3. On 20 May 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 22 August 2024 the Tribunal enclosed a copy of the application and invited the Respondents to make written representations to the application by 12 September 2024. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 26 September 2024. This paperwork was served on the Respondents by Andrew MacLean, Sheriff Officer, Glasgow on 28 August 2024 and the Execution of Service was received by the Tribunal administration.
5. The Respondents did not make any representations.
6. On 10 September 2024 the Applicant’s solicitor forwarded an up to date rent statement to 7 September 2024 showing arrears of £34 000 and seeking to increase the sum of arrears. The Respondents were copied in on this email.

### **Case Management Discussion**

7. The Tribunal proceeded with a CMD on 26 September 2024 by way of teleconference. Ms Brechany from T C Young, solicitors appeared for the Applicants. There was no appearance by or on behalf of the Respondents despite the CMD starting 10 minutes late to allow them plenty of time to join the call. The Tribunal was satisfied the Respondents had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in their absence. The case was heard together with a case for arrears under case reference number FTS/HPC/EV/24/1355.
8. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 7 September 2018, and the updated rent statement to 7 September 2024. The Tribunal considered these documents.
9. Ms Brechany advised in terms of Clause 5 of the tenancy agreement the Respondents had agreed to pay £500 per month rent to the Applicants. When the action was raised arrears were £31 000. Arrears had since increased to £34 000. She moved that in terms of Rule 14A of the Regulations the sum sought be increased to £34 000. She also sought interest at 8% in terms of Clause 5 of the tenancy agreement.

10. The Tribunal asked to be addressed on how the arrears had reached such a high level as they had to be satisfied it was reasonable to evict. Mr Brechany submitted there had been extensive correspondence between the parties by Facebook Messenger. At the start of the tenancy her clients had not asked for an upfront payment as the Respondents were short of money. The Applicants had helped the Respondents find work in a delivery warehouse, but after 2 weeks, the Respondents resigned. Ms Petcu had some health difficulties. Mr Damian then found work as a delivery driver. Arrears were increasing and in March 2019 Mr Damian promised to pay the rent but he had to buy a new car for his job. In June 2019 Ms Petcu left and returned to Romania. Mr Damian was overwhelmed and again promised the Applicants he would pay. In July 2019 a payment of £500 was received from a friend. In August 2019 Mr Damian said he was applying for a loan. There was regular correspondence between the parties to December 2019 at which point Mr Damian returned to Romania for Christmas. In January 2020 Mr Damian advised they both intended to return to Scotland, but they had solicitors' fees relating to their immigration status. On 26 February 2020 Mr Damian advised he would return and made promises to pay the rent. When the pandemic hit in March 2020 the Respondents were still in Romania, but still indicated they intended to return to Scotland. On 9 July 2020 they indicated that they would meet the Applicants when they returned to Scotland. The Applicants then instructed a letting agent to help them manage the tenancy. Ms Brechany submitted that the Applicants had held onto hope that the arrears would be paid. They did not have funds to take action, but things have escalated they have had no choice but to pursue the Respondents.

### **Reasons for Decision**

11. 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 Ms Brechany.
12. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicants had produced evidence of persistent non-payment of rent. The Respondents had not disputed the application. The Tribunal determined the sum be increased to £34 000 in terms of Rule 14A of the Regulations, but that in all the circumstances interest should not be awarded in terms of Rule 41A of the Regulations. The Tribunal was satisfied on the basis of the documents lodged, together with Ms Brechany's submissions that an order for payment in favour of the Applicants be granted.

## **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.

# Shirley Evans

26 September 2024

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Legal Member

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Date