



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.**

**Chamber Ref: FTS/HPC/CV/24/0790**

**Re: 3 Argyle Terrace, Rothesay, Isle of Bute, PA20 0BD ("the Property")**

**Parties:**

**Suzanne Lockiln residing at 3 Argyle Terrace, Rothesay, PA20 0BD ("the Applicant")**

**David Beattie and Susan McLean residing at 31 Longhill Terrace, Rothesay, PA20 0JU ("the Respondents")**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")**

**Tribunal Member: Jacqui Taylor (Legal Member)**

## **Background**

1. The Applicant submitted an application to the Tribunal for payment of for the sum of £3988 in respect of outstanding rent for the period 11<sup>th</sup> April 2023 to 28<sup>th</sup> November 2023. In addition, she sought the deposit of £500 to be returned to her as part compensation for damages caused to the Property by the Respondents. She also stated that she wishes the Respondents to return the loft access ladder which was in the Property.

### **2. Documents originally lodged with the Tribunal.**

Documents originally lodged with the Tribunal by the Applicant were:

- 2.1** A copy of the Private Residential Tenancy Agreement dated 9<sup>th</sup> and 23<sup>rd</sup> April 2021.
- 2.2** Rent Statement for the period June 2021 to November 2023.
- 2.3** Mortgage Valuation Report dated 10<sup>th</sup> January 2024.
- 2.4** An estimate by Gerry McGuigan, builder.

### **3. The First Case Management Discussion.**

This case called for a Case Management Discussion (CMD) at 14.00 on 14<sup>th</sup> August 2024.

The Applicant attended. The Respondents did not attend and were not represented.

The Respondents had not provided any written representations.

The letter from the Tribunal to the Respondents with details of the CMD had been delivered to the Respondents by Stewart MacLaren, Sheriff Officer on 11<sup>th</sup> July 2024. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with.

3.1 Ms Locklin advised as follows:

3.1.1 The Respondents had vacated the Property on 28<sup>th</sup> November 2023.

3.1.2 She has reached agreement with the Respondents regarding the ladder and the deposit. The Respondents have agreed that she should retain the deposit due to the condition of the Property at the end of the tenancy.

3.1.3 The correct amount of the rent arrears as at 28<sup>th</sup> November 2023 is £3858.

### **3.2 Outcome of the First Case Management Discussion.**

The First CMD was adjourned to a further date to allow time for the Applicant to submit an application to amend the sum sought and provide an updated rent statement.

### **4. Application to amend the Application.**

4.1 The Applicant sent the Tribunal an email dated 18<sup>th</sup> August 2024 advising that she wished to amend the application as follows:

4.1.1 Removing the request concerning the security deposit.

4.1.2 Removing the request concerning the ladder.

4.1.3 Amending the rent arrears sought to £3742.

She provided the Tribunal with an updated rent statement for the period May 2021 to 28<sup>th</sup> October 2023 which showed the outstanding rent sought was £3742. The amended rent statement included an adjustment of the rent due in November 2023 to 27 days instead of 28 and the writing off of £100 unpaid rent that related to 2022.

### **5. The Second Case Management Discussion.**

This case called for a Case Management Discussion (CMD) at 10.00 on 27<sup>th</sup> January 2025.

The Applicant attended. The Respondents did not attend and were not represented.

The Respondents had not provided any written representations.

The letter from the Tribunal to the Respondents with details of the CMD had been posted to the Respondents on 9<sup>th</sup> December 2024. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with.

The Applicant confirmed that the Respondents have not made any recent payments and that she sought a payment order in the sum of £3742. She also advised that after the last CMD she received a text message from one of the Respondents offering to pay the sums due at the rate of £25 per week but no payments have been made.

## **6. Decision**

### **6.1 The Tribunal made the following findings in fact:**

6.1.1. The Respondents had been Tenants of the Property in terms of the lease between the parties. The start date of the Tenancy detailed in the lease was 15<sup>th</sup> May 2021. The tenancy ended on 28<sup>th</sup> November 2023.

6.1.2 The lease is a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

6.1.3 The Applicant is Landlord of the Property.

6.1.4 The Applicant is heritable proprietor of the Property in terms of Land Certificate BUT2318.

6.1.5 The rent detailed in the tenancy agreement was £500 per calendar month, payable in advance.

6.1.6 Clause 65 of the lease states that the Tenants are jointly and severally liable for all of the obligations under the lease.

6.1.7 The rent arrears as at 28<sup>th</sup> November 2023 were £3892.

6.1.8 The Applicant was not seeking repaying of £100 rent arrears from 2022 and had applied a credit of £50 to the rent account for garden work carried out by the Respondents.

6.1.10 The outstanding rent sought by the Applicant, which is due by the Respondents, is £3742.

## **7. Decision**

The Tribunal determined that the outstanding rent due by the Respondents amounts to £3742 and accordingly they issued an Order for Payment in this sum.

## **8. 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.

# J. Taylor

..... Legal Member

27<sup>th</sup> January 2025