



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising from a tenancy under Section 1 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/CV/24/4586**

**Re: Property at 25 Golf Street, Ladybank, Cupar, Fife, KY15 7NT (“the Property”)**

**Parties:**

**Executors of Mrs Euphemia Thomson Nairn, Executor Agnes Campbell Nairn, Executor Jane Davidson Nairn McAndry, Executor Jane Davidson Nairn McAndrt, Executor Robin Todd Winter, Late of Pitlair House, Bow of Fife, Cupar, KY15 5RF; 2 Rosslyn Road, Bath, BA1 3LH; Cronk Coar, Ballamodha Straight, Ballamodha, Ballasalla, Isle of Man, IM9 3AY; Cronk Coar, Ballamodha Straight, Ballamodha, Ballasalla, Isle of Man, IM9 3AY; 22 Crossgate, Cupar, Fife, KY15 5HW (“the Applicants”)**

**Kelly Mulholland, Mark Webster, 25 Golf Street, Ladybank, Cupar, Fife, KY15 7NT (“the Respondents”)**

**Tribunal Members:**

**Susan Christie (Legal Member) and Gordon Laurie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondents for payment of the Sum of Eleven Thousand Seven Hundred and Seventy Pounds (£11,770) sterling to the Applicants.**

**With Interest thereon at the rate of 9.50% per annum, running from the date of the decision of the First-tier Tribunal to grant this order, being 23 April 2025, until payment.**

**Background**

1. The Applicants lodged an application around 2 October 2024 for a payment order arising from a tenancy under section 1 of the 2016 Act. It was accepted by a legal member of the First-Tier Tribunal with delegated powers to do so on 29 October 2024.

2. Along with the application there were lodged the private residential tenancy agreement("PRT"), Rent statements, Death Certificate of Euphemia Nairn, and a Certificate of Confirmation dated 20 September 2022.
3. A copy of the application and paperwork was served on both Respondents by Sheriff Officer service on 26 February 2025 and the Parties were notified that a Case management Discussion ("CMD") would take place by conference call on 23 April 2025 at 10a.m.
4. Prior to the CMD the Applicants lodged an updated rent statement to reflect the increased rent arrears due, and updated details of the interest sought for this payment application. The Respondents had been copied into this.
5. The CMD took place on 23 April 2025 and the Applicants were represented by Mr Deane, trainee solicitor. Neither of the Respondents participated.
6. No written representations were submitted by the Respondents.

### **Summary of the Case Management Discussion**

5. The documents lodged in support of the application were discussed.
6. The rent arrears stood at £11,770 of 9 April 2025.
7. The last payment to rent was made on 1 March 2024 of £700.
8. No repayment arrangement had been agreed.
9. The Applicants had made an application for an eviction order based on rent arrears that was also calling today for a CMD.
10. The Applicants are the Executors-Nominate of the Estate of the deceased landlord. It had been decided more recently that the portfolio of properties in her Estate would be sold. Three had already been sold and another was in the process of being sold. The intention was now to also sell the Property.
11. A payment order for payment of the unpaid rent arrears is sought in this application, along with contractual interest.

### **Findings in Fact**

7. The Applicants are the Executors-Nominate over the Estate of the late Euphemia Thomson Nairn.
8. Confirmation was issued in the Applicants favour over the Property from the Commissariat of Tayside, Central and Fife on 20 September 2022 in the capacity of Executors-Nominate over the Estate of the late Euphemia Thomson Nairn.
9. The Executors-Nominate over the Estate of the late Euphemia Thomson Nairn acquired the landlord rights over the PRT entered into between the Parties on 16 June 2020.
10. The Respondents are due to pay the contractual rent of £625 per calendar month under said PRT.
11. The Respondents have been in rent arrears since around December 2021.
12. The rent arrears due as of 9 April 2025 are £11,770.
13. The last payment to rent was made by the Respondents on 1 March 2024 of £700.
14. Clause 2.5.6 of the PRT allows for payment of contractual interest on unpaid rent at the rate of 5% over the base rate of the Bank of Scotland on any sums

sue by the tenant under the lease which remain unpaid 14 days after the due date for payment.

## **Reasons for Decision**

15. The tribunal was satisfied that intimation of the CMD had been made on the Respondents as evidenced by the Sheriff Officer's Certificates of Service and proceeded in their absence.
16. The Applicants are the Executors-Nominate over the Estate of the late Euphemia Thomson Nairn. Confirmation was issued in the Applicants favour over the Property from the Commissariat of Tayside, Central and Fife on 20 September 2022 in the capacity of Executors-Nominate over the Estate of the late Euphemia Thomson Nairn. The Executors-Nominate over the Estate of the late Euphemia Thomson Nairn acquired the landlord rights over the PRT entered into between the Parties on 16 June 2020.
17. The Respondents are due to pay the contractual rent of £625 per calendar month under said PRT to the Applicants.
18. The Respondents have been in rent arrears since around December 2021.
19. The last payment to rent was made by the Respondents on 1 March 2024 of £700.
20. The rent arrears due as of 9 April 2025 are £11,770.
21. Clause 2.5.6 of the PRT allows the Applicants to seek interest on unpaid rent at the rate of 5% over base rate of the bank of Scotland on any sums due by the tenant under the lease which remain unpaid 14 days after the due date for payment. The Applicants sought 10% in their recent amendment. However, the base rate is in fact 4.50% therefore the interest granted by the tribunal is restricted to 9.50% and running from today's date.

## **Decision**

22. The tribunal grants an order for payment against the Respondents for £11,770 and interest at 9.50% per annum from today's date until payment in full is made.

## **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.**



**Legal Member/Chair**

**23 April 2025**  
**Date**