



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/24/5381

Re: Property at 1H Macbeth Drive, Kilmarnock, KA3 7HN (“the Property”)

Parties:

Mr David Hannah, Mr Neil McMillan, 7 Balcomie Crescent, Troon, KA10 7AR (“the Applicants”)

Miss Amanda MacKinnon, 1H Macbeth Drive, Kilmarnock, KA3 7HN (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an order for payment of rent arrears alleged to be owed by the Respondent to the Applicants in terms of a private residential tenancy agreement. It called for case management discussion (‘CMD’) at 2pm on 28 May 2025, by teleconference. The Applicants were represented on the call by Mr Dean, of Bannatyne Kirkwood France & Co., solicitors. The Respondent was on the call in-person.

- Findings in Fact

The Respondent did not oppose the application. The Tribunal considered the following admitted facts as relevant to its decision:

1. The Applicants let the Property to the Respondent in terms of a private residential tenancy agreement with a start date of 26 October 2023.
2. In terms of the tenancy agreement, rent of £475 is due on the 26th day of each month.
3. There is no provision in the tenancy agreement for interest to be applied to any outstanding sum.
4. The Respondent paid no rent on 26 April 2024 and has been in arrears since that date.
5. This application was raised seeking the sum of £2,695 and interest.
6. As at the date of the CMD, the Respondent's rent arrears stood at £6,020.

- Reasons for Decision

7. The Applicants had applied prior to the CMD to amend the sum sought to £5,545, in terms of rule 14A of the Tribunal's Rules of Procedure. This application was not opposed. The Tribunal granted it.
8. Thereafter, the amount of rent arrears outstanding being in excess of the sum sought (as amended), an order for payment of the sum sought (as amended) was made.
9. The Applicants had also asked the Tribunal to make any award subject to interest. The Tribunal declined to do so. The parties did not agree that

outstanding sums would be subject to interest in the tenancy agreement, and they could not therefore have expected interest to be applicable to such sums.

10. In addition, the matter calls conjoined with an application for an eviction order, granted, at least in part, on the basis that the Respondent is not able to address the rent arrears she has amassed. In those circumstances, the Tribunal considers it would be unduly and pointlessly punitive to apply interest to this order.

- Decision

Order granted for payment by the Respondent to the Applicants of the sum of FIVE THOUSAND, FIVE HUNDRED AND FORTY-FIVE POUNDS STERLING (£5,545).

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.

Nairn Young

28th May 2025

Legal Member/Chair

Date