



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/24/5404

Re: Property at 3 Birnam Place, Shaw Street, Blairgowrie, PH10 6EB (“the Property”)

Mrs Cornelia Macwilliam and Mr Ruari Macwilliam, West Leiffie Cottage, Alyth, Blairgowrie, PH11 8NZ (“the Applicant”)

Miss Pamela McCash, 3 Birnam Place, Shaw Street, Blairgowrie, PH10 6EB (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Helen Barclay (Ordinary 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 Applicant in the sum of FIVE THOUSAND AND FORTY SEVEN POUNDS (£5047) 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 16 September 2022, a rent statement showing arrears of £5047 and some correspondence between the Applicants’ letting agent and the Respondent.

3. On 28 January 2025, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 26 April 2025 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 28 July 2025. The Respondent required to lodge written submissions by 17 May 2025. This paperwork was served on the Respondent by Roderick Stevenson, Sheriff Officer, Kirkcaldy on 1 May 2025 and the Execution of Service was received by the Tribunal administration.
5. On 14 July 2025 the Tribunal issued a Notice of Direction to parties requiring them to lodge various documents by 23 July 2025. Both parties were required to lodge correspondence showing when the Respondent gave notice to the Applicant or to the Applicants’ agent that repairs were required mould, holes in the Property, the toilet seat, dishwasher, combi washer, dishwasher and fridge. The Respondent was required to lodge all correspondence to show she had put the Applicant or the Applicants’ agent on notice that she intended to withhold rent at the Property and her reasons for doing so. The Respondent was also required to lodge proof she held the equivalent of the rent withheld by her in a bank or other account.
6. On 18 July 2025 the Applicants’ agent lodged a Inventory of Productions in compliance with the Notice of Direction. It also included an up to date rents statement showing arrears of £8015.
7. The Respondent failed to comply with the Notice of Direction.

Case Management Discussion

8. The Tribunal proceeded with the CMD on 28 July 2025 by way of teleconference. Ms Anderson from Robertson Property Management Ltd appeared for the Applicants. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow her 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 her absence. The case was heard together with a case for arrears under case reference number FTS/HPC/EV/25/0051.
9. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 16 September 2022, the rent statement showing arrears of £8015 and correspondence between the Applicants’ letting agent and the Respondent and third parties regarding repairs to the Property. The Tribunal considered these documents.

10. Ms Anderson submitted that in terms of the rent statement arrears had increased to £8015. The last payment was on 21 March 2025. The rent had been getting paid by Universal Credit but this had stopped. They had applied again for the rent to be paid direct to them but this had been unsuccessful. She had emailed the Respondent but had had no response.

11. The Tribunal queried whether there were any outstanding repairs to the Property as there was a suggestion from the correspondence lodged that the Respondent was withholding rent. Ms Anderson explained that there had been a temporary repair to the external walkway. This was a communal repair and only another two of the other three owners who was responsible for this had agreed to pay. The Applicants and the other two owners will go ahead with a permanent repair and will take the other owner to court to recover the money due to them. The washer/dryer had been reported as not working. This was repaired within a few days. The Respondent had advised she only needed the washing machine to work as she had another dryer. There had been condensation in the bathroom which had been treated. There were no outstanding complaints. Regarding the floorboards, the Respondent had reported that they were dipping. Alba Build were instructed to repair these. The Building Services Department of the Council had confirmed the repairs to the floor had been carried out and were satisfied with these. The plasterwork next to the front door had been attended to as well. No further reports had been received regarding the plasterwork. There had been some issues with the boiler which had been attended to on the same or following day.

Reasons for Decision

12. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Ms Anderson.

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

Decision

14. The Tribunal granted an order for payment of £ 5047. The decision of the Tribunal was unanimous.

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

Shirley Evans

28 July 2025

Legal Member

Date