

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with statement of reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 (“the 2014 Act”) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/CV/24/3989

Re: Property at 28 Torridon Walk, Livingston, EH54 5AT (the Property)

Parties:

Ibikunle Ayodele Aluko and Omoshlewa Aluko, 1 Carnethy Walk, Murieston, Livingston, West Lothian, EH54 9FW (the Applicants)

Bannatyne, Kirkwood France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG (the Applicants’ Representative)

Dominika Gruchala and Maciej Woziwda, present whereabouts unknown, previously residing at 28 Torridon Walk, Livingston, EH54 5AT (the Respondents)

Tribunal Members:

Ms. Susanne L. M. Tanner KC (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay the Applicant the sum of FOUR THOUSAND THREE HUNDRED AND FORTY FIVE POUNDS AND SIXTY SIX PENCE (£4345.66) STERLING; and made an Order for Payment in respect of the said sum; with interest at the rate of 4.25 per cent per annum from the date of the order, namely 29 July 2025, until payment.

Reasons

Procedural Background

1. The Applicant's Representative made an application to the tribunal in terms of Section 16 of the Housing (Scotland) Act 2014 (the 2014 Act) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules).
2. In the Application, the Applicants sought a payment order against the Respondents in respect of rent arrears of £4016.25.
3. The Applicants' Representative provided the following documents in support of the Application:
 - 3.1. Form F application form dated 27 August 2024 and paper apart.
 - 3.2. Private Residential Tenancy Agreement dated 15 October 2021;
 - 3.3. Rent statement up to August 2024; and
 - 3.4. Rent increase notice dated 3 July 2023.
4. The tribunal's administration obtained a copy of the title sheet for the Property which show that the Applicants are the registered proprietors.
5. The tribunal confirmed that the Applicants are the registered landlords with Landlord Registration Scotland.
6. The Application was accepted for determination by the tribunal. A Case Management Discussion (CMD) teleconference was fixed for 1 April 2025 (with a CMD in a related eviction application).
7. The tribunal sent letters of notification to all parties with the date, time and arrangements for joining the CMD in relation to the Application. The Respondent was invited to make written representations in response to the Application by 23 June 2025. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. The parties were also advised that if they do not attend the CMD this would not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.
8. The second respondent lodged written representations in advance of the CMDs.

9. Service of the Application paperwork and notice of the CMD was served on the Respondents by Sheriff Officers on 21 February 2025.
10. The CMD was dealt with by a differently constituted tribunal. The Applicants' Representative and the Respondents were present. The CMD was adjourned. The legal member and chair of that CMD prepared Notes on the Case Management Discussion dated 1 April 2025 which are referred to as a summary of the discussion at the CMD and the reason for the adjournment. Mr Woziwda, the Respondent said that he had made a payment towards the arrears on the date of the CMD. It did not match the total arrears and the Applicants were unable to confirm at that time whether it had been received. The Legal Member decided to adjourn for clarification as to the amount sought in terms of a payment order. In the related CMD, an eviction order was granted against the Respondents.

CMD: 29 July 2025, 1400h, Teleconference

11. Mr O'Donnell attended from the Applicant's representative.
12. The Respondents did not attend. The tribunal was satisfied that the requirements of Rule 24(1) regarding the giving of notice of a hearing had been duly complied with and proceeded with the application upon the representations of the party present, in term of Rule 29 of the 2017 Rules.

Applicant's Representative's submissions

13. Mr Deane state that he is seeking a payment order £4345.66, plus interest at the base rate of 4.25% per annum from the date of the order until paid.
14. Mr Deane stated that there was an application to amend the sum claimed prior to the first CMD which took place on 1 April 2025. He stated that the Respondents removed from the property on 27 May 2025, by Sheriff Officers. The rent arrears have been calculated to that date.
15. Mr Deane produced a rent statement which was downloaded on 29 July 2025. It covers the period to the end of the tenancy to 27 May 2025. Following the end of the tenancy there have been no further payments. Mr Deane has not been informed of any contact from the Respondents. He noted that prior to the Application begin made, a payment plan had been agreed by the Respondents in 2023 which was not adhered to.
16. Mr Deane stated that the deposit is yet to be allocated. The Applicants have made a claim against it but that has not been accepted by the Respondents. Mr Deane does not know when the claim was made but they are still in the 30 day waiting

period. The total deposit is £1462.50 and £1263.50 has been requested towards rent arrears. The Applicants would only enforce any payment order up to the sum due. If the deposit money is recovered in respect of rent arrears it will be credited to the outstanding rent arrears balance.

17. The rent statement dated 29 July 2025 shows that the rent increased from £975 to £1004.25 per calendar month from 18 October 2023. The rent notice dated 3 July 2025 is in the application paperwork.

18. Mr Deane made submissions on interest. The PRT commenced on 18 October 2021. Since December 2023 the tenants have been permanently in arrears. Substantial arrears have been allowed to accrue. The Applicants submit that it is reasonable to award interest. There is no contractual provision for interest. Mr Deane submitted that the base rate of 4.25 per cent per annum would be appropriate.

19. The tribunal makes the following findings-in-fact:

19.1. The Applicants are the registered proprietors of the Property.

19.2. There is a private residential tenancy agreement between the Applicants and the Respondents for the Property which began on 18 October 2021.

19.3. Rent is payable at the rate of £975.00 per calendar month on 1st of each month in advance from the start of the tenancy to 18 September 2023; and at £1004.25 per calendar month from 18 October 2023 onwards.

19.4. The Respondents have been permanently in arrears since December 2023.

19.5. The tenancy ended on 27 May 2025 following an order for eviction being granted by the tribunal on 1 April 2025.

19.6. As at 27 May 2025, the rent arrears were £4345.66.

19.7. The Respondents have made no payments towards rent arrears since the tenancy ended.

19.8. As at 29 July 2025, the Respondents were in arrears of rent of £4345.66.

Discussion

20. The tribunal determined on the basis of the Application, including supporting documents that the Applicants have proved that the Respondents owe the Applicants the amended sum of £4,345.66 in respect of rent arrears to 27 May 2025; and made an order for payment by the Respondents to the Applicants for the said sum.
21. The tribunal was satisfied that it was reasonable to make an order for payment of interest on the principal sum at the rate of 4.25 per cent per annum from the date of the order, namely 29 July 2025 until payment.

Ms Susanne L. M. Tanner K.C.
Legal Member/Chair

Date: 29 July 2025

Susanne Tanner