



**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**

Chamber Ref: FTS/HPC/CV/24/4629

Re: Property at 29 Clare Crescent, Larkhall ML9 1ES (“the Property”)

Parties:

Andrew Newman Limited, 14 West Mains Crofts, West Calder EH55 8FL (“the Applicants”)

Mr John McGuire and Miss Kylie Henderson, both sometime 29 Clare Crescent, Larkhall ML0 1ES, but whose present whereabouts are unknown (“the Respondents”)

**Tribunal Member:
George Clark (Legal Member)**

**Decision (in absence of the Respondents)
The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be refused.**

Background

1. By application dated 7 October 2024, the Applicants sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondents to the Applicants. The sum sought was £752.96.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 28 March 2022 at a rent of £850 per month, with a deposit of £1,000, and a Rent Statement from the Applicants’ letting agents indicating arrears as at 20 June 2024 of £2,933.06. The Applicants explained that they already held an Order for Payment in respect of £2,180.10, dated 6 December 2023, the difference between these sums being the amount now sought.
3. On 22 February 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 15 March 2025. The Case Management Discussion was postponed twice, on 23 April 2025 and 31 July 2025 and was rescheduled for 4 September 2025. As the Respondents’ whereabouts were

unknown, service was effected by advertisement on the Tribunal's website from 23 July 2025 to 28 August 2025. The Respondents did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 4 September 2025. The Applicants were represented by Mr Andrew Newman. The Respondents were not present or represented.
5. The Tribunal Member directed Mr Newman to the Rent Statement provided to the Tribunal and, in particular, to the fact that it contained a debit entry, dated 23 April 2024, which was unrelated to rent. It was for £1,000, stated to be for "Dilapidations to property in xs of deposit amount." The Statement also showed that the full deposit of £1,000 had been returned to the Applicants and set off against the arrears. Mr Newman accepted that the debit of £1,000 was not for rent. He had been unaware that the letting agents had included it in a Rent Statement.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations") provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. The Tribunal's view was that the sum of £1,000 wrongly debited to the Rental Account on 23 April 2024 must be deducted from the Applicants' claim. The consequence of that was that the arrears of rent, when this sum, and the returned deposit of were taken into account, the rent arrears did not exceed the amount awarded in the Order for Payment made by the Tribunal on 6 December 2023. Accordingly, the application must be refused as the sum sought was not due.

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.

George Clark

Legal Member/Chair

4 September 2025
Date