



**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/25/1774

Re: Property at 56 Kelburn Avenue, Fairlie, Largs, KA29 0AU (“the Property”)

Parties:

Ms Shirley Paterson, The Auld Exchange, School Brae, Fairlie, Largs, KA29 0DE (“the Applicant”)

Miss Sahem Mostafa Saleem, Mr Sarbast Hamza, 56 Kelburn Avenue, Fairlie, Largs, KA29 0AU; 56 Kelburn Avenue, Fairlie, Largs, KA29 0AU (“the Respondent”)

Tribunal Members: Ruth O’Hare, Legal Member, and Ahsan Khan, Ordinary Member

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents are liable to pay the sum of Fourteen thousand three hundred and seventy five pounds (£14,375) to the Applicant under the terms of the tenancy agreement between the parties.

The Tribunal therefore made a payment order in the sum of £14,735.

The Tribunal further determined to exercise its discretion under Rule 41A of the Rules and award interest on the sum due at the contractual rate of 4% above the base lending rate of the Applicant’s bank per annum from the date of this decision until payment.

Background

- 1 This is an application for a payment order under rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”). The Applicant sought to recover rent which had gone unpaid by the Respondents. The application was conjoined with an application

for a payment order under reference FTS/HPC/EV/25/1776 as the applications related to the same tenancy and same parties.

- 2 The application was referred to a case management discussion ("CMD") to take place by teleconference on 30 October 2025. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondents by sheriff officers on 22 September 2025.
- 3 Both parties were invited to make written representations. On 26 September 2025, 10 October 2025 and 16 October 2025 the Tribunal received written representations from the Applicant. On 2 October 2025 the Tribunal received written representations from the Respondents.

The CMD

- 4 The CMD took place by teleconference on 30 October 2025. Mr Calum Haswell of James Guthrie & Co LLP represented the Applicant, who was present on the call. The Respondents were not in attendance. The Applicant advised that she had not had any contact with the Respondents since February this year. The Tribunal noted the response to the application which indicated they had received the case papers and CMD notification. They had provided no explanation to the Tribunal as to the reason for their absence. The Tribunal was therefore satisfied that they had been given proper notice of the CMD under Rule 17(2) of the Rules and determined to proceed in their absence.
- 5 The Tribunal had the following documents before it:-
 - (i) Form F application form
 - (ii) Tenancy agreement between the parties dated 23 August 2024 with inventory of contents;
 - (iii) Rent statement;
 - (iv) The Applicant's written representations dated 26 September 2025, 10 October 2025, and 16 October 2025.
 - (v) The Respondent's written representations dated 2 October 2025.
- 6 The Tribunal explained the purpose of the CMD and proceeded to hear submissions from Mr Haswell on behalf of the Applicant.
- 7 Mr Haswell confirmed that the Applicant sought a payment order in the increased sum of £14,375 which reflected the rent statement submitted to the Tribunal on 16 October 2025. The rent for October had since fallen due resulting in an increased balance of £15,725, however Mr Haswell accepted he would be restricted to the lesser sum under Rule 14A of the Rules.
- 8 Mr Haswell referred to the Respondents' written representations. He noted their statement that the rent was paid in cash in full and on time, therefore they did not have formal bank records. Mr Haswell referred to the bank statements produced by the Applicant which showed the Respondents had paid rent by bank transfer in the initial months of the tenancy. The Respondents' statement

was therefore untrue. The Applicant therefore sought a payment order together with interest at the rate of 4% per annum above the base lending rate which aligned with the terms of the tenancy agreement.

- 9 The Tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the proceedings and confirming the outcome.

Findings in fact

- 10 The Applicant is the owner and landlord, and the Respondents are the tenants, of the property in terms of a private residential tenancy agreement which commenced on 26 August 2024.
- 11 The contractual rent for the property is £1350 per month.
- 12 Between 26 August 2024 and 26 November 2024 the Respondents paid rent to the Applicant by bank transfer.
- 13 The rent account has been in arrears since 26 November 2024. There are rent arrears in the sum of £15,725 as at the date of this decision.
- 14 In terms of clause 2.20 of the said tenancy agreement the Respondents agreed to pay interest at the rate of 4% above the base lending rate of the Applicant's bank upon any rent due which is more than three days in arrears.

Reasons for decision

- 15 The Tribunal was satisfied it had sufficient information to make relevant findings in fact based on the oral and written submissions and documentary evidence before it. The Respondents had been clearly advised in the CMD notification that the Tribunal could proceed to a decision at the CMD. They had provided no explanation for their failure to attend the discussion and had not sought to submit any evidence to the Tribunal to counter the documentary evidence submitted by the Applicant. The Tribunal was therefore satisfied it could reach a decision in the absence of the Respondents and in the absence of a hearing under rule 18 of the Rules. The Respondents' submissions did not in their current form disclose any stateable or credible defence to the application and there were therefore no issues to be resolved that would require a hearing to be fixed.
- 16 The Tribunal accepted based on the rent statements produced that the Respondents had accrued rent arrears of £15,725. Whilst the Respondents had sought to dispute this in their written submission, the Tribunal found their explanation completely lacking in credibility. The Applicant had produced evidence to show that the Respondents had in fact made payments of rent by bank transfer, therefore their claim that payments had been made in cash appeared to be untrue. The Tribunal also found it difficult to accept that they would have paid over significant sums of money to the Applicant without

obtaining some form of receipt. The Tribunal therefore accepted the Applicant's position as fact based on the documentary evidence before it.

- 17 Accordingly, the Tribunal was satisfied that the Respondents were liable to pay the sum of £15,725 to the Applicant under the terms of the tenancy agreement between the parties. The Tribunal was, however, restricted under Rule 14A of the Rules to consideration of the sum most recently intimated to the Tribunal and notified to the Respondents, which is £14,735.
- 18 The Tribunal further determined to exercise its discretion under Rule 41A of the Rules to award interest on the sum claimed in accordance with the terms of the tenancy agreement. There was no compelling evidence before the Tribunal to justify a departure from the contractual rate.
- 19 The Tribunal therefore made an order for payment in the sum of £14,375 together with interest at the rate of 4% above the base lending rate of the Applicant's bank from the date of this decision until payment.

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.

Ruth O'Hare

Legal Member/Chair

Date: 30 October 2025