



**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/19/0001**

**Re: Property at 20 Culbard Street, Elgin, IV30 1JT (“the Property”)**

**Parties:**

**Mr John McGhee and Mrs Rosemary McGhee, Shankly, Clackmarras, Longmorn, Elgin, IV30 8RJ; Shankly, Clackmarras, Longmorn, Elgin, IV30 8RJ (“the Applicant”)**

**Ms Sharon MacConnachie, 26 Covesea Rise, Elgin, IV30 4PN (“the Respondent”)**

**Tribunal Member:**

**David Preston (Legal Member) (“the tribunal”)**

**Decision (in absence of the Respondent)**

**The tribunal determined that the respondent will pay to the applicants the sum of Two thousand three hundred and one pounds and 86 pence (£2301.86) being arrears of rent under the Tenancy Agreement between the parties.**

**Background:**

1. By application dated 30 December 2018 the applicants applied to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) for an order for payment in respect of arrears of rent. The tribunal was provided with: a copy of the Private Residential Tenancy Agreement dated 11 and 24 November 2017; Copy Bank Statements; letters from local authority regarding housing benefit; and Notes on a Case Management Discussion (CMD) held on 15 April 2019.

**Case Management Discussion (CMD)**

2. The CMD of 15 April 2019 had been adjourned until today to allow the respondent to lodge an application for time to pay direction in terms of the Debtors (Scotland) Act 1987 (as amended).

3. The Notes of the previous CMD stated that the respondent confirmed that she accepted the level of arrears claimed by the applicants, being £2301.86, and that she accepted that none of the security deposit paid by her at the outset of the tenancy was available to be applied against the arrears as this had been used to replace a carpet.
4. At the previous CMD the respondent had requested time to pay, but as the application had been served before the amendment of the tribunal's rules of procedure to allow for a Time to Pay Direction to be granted by the tribunal, she had not been given notification of the possibility of making such an application. For this reason, the adjournment had been granted until today and it was made clear that the only issue would be the question of time to pay and that the applicants would have an opportunity to consider any such application and either accept or reject it. If there was an objection the tribunal would determine the matter.
5. The CMD was dealt with by teleconference and at the scheduled time, Mr McGhee was in attendance by phone. The respondent was neither present in person, nor by phone and was not represented. The respondent had been in attendance at the previous CMD and the tribunal was satisfied that she had been given due notice of the CMD and that it had been made clear to her in person that the only matter to be considered was a time to pay application.

**Reasons for Decision:**

6. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
7. In the absence of a time to pay application or of any other representations the tribunal had no hesitation in granting the order for payment as sought.

**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.**

**David Preston**

28 May 2019

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Legal Member/Chair

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Date