

**Housing and Property Chamber**  
**First-tier Tribunal for Scotland**

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**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017**

**Chamber Ref: FTS/HPC/CV/19/0804**

**Re: 9 Lochinch Gardens, Cove, Aberdeen, AB12 3RG (“the property”)**

**Parties:**

**Mr Lamidi Oloye and Mrs Omolade Oloye, 10 Spring Avenue, Hampton Vale, Peterborough, Cambridgeshire, PH7 8HW**

**(“the applicants”)**

**Mrs Bukola Thomas, 9 Lochinch Gardens, Cove, Aberdeen, AB12 3RG**

**(“the respondent”)**

**Tribunal Member:**

**Adrian Stalker (Legal Member)**

**Decision:**

**The Tribunal found that the sum of £11,000 was due, as rent arrears, by the respondent to the applicants, and made a payment order for that amount.**

**Background**

1. This is an application under rule 70 of the schedule to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”). The applicants and respondent are respectively the landlords and tenant in a lease of the property, dated 17 and 19 July 2017.

2. In their application to the Tribunal, dated 12 March 2019, the applicants sought payment from the respondent in the sum of £6,600, being rent arrears. A copy of the lease was attached to the application. In terms of clause 2 thereof, the rent payable

was £1,100 per calendar month, payable in advance, on the last day of each month. A schedule was also attached to the application, indicating that the rental payments were maintained by the respondent till May 2018, after which payments were made in successive months which fell short of the full rent due. More recently, payments stopped completely. Since a payment of £1,000 made on 28 September 2018, only a single payment of £500 had been made, on 1 December.

3. The applicants have also made an application under rule 65 of the Procedure Rules, for an order for recovery of possession under section 18(3) and (4) of the Housing (Scotland) Act 1988, on the rent arrears grounds in schedule 5 of the Act (grounds 8, 11 and 12). This is application FTS/HPC/EV/19/0803.

4. On 20 March 2019, a legal member of the Tribunal, having powers delegated from the Chamber President, accepted the current application for determination. Application FTS/HPC/EV/19/0803 was accepted for determination on 16 April 2019. A Case Management Discussion (“CMD”) was fixed for 18 June 2019, in respect of both applications. However, it was necessary for the CMD to be postponed, because sheriff officers had been unable to effect service on the respondent of notification of date and time of the CMD. A further CMD was fixed for 25 July.

5. In advance of that hearing, the applicants’ agents, Messrs Aberdein Considine, intimated to the Tribunal an application, under rule 14A of the Schedule to the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”) to increase the sum claimed in respect of this application from £6,600 to £11,000. That application was intimated to the respondent by letter dated 4 July sent by recorded delivery. The recorded delivery slip was produced. Attached to the amendment application was another schedule of rental payments. This indicated that no payments had been made since the application was lodged with the Tribunal in March. Accordingly, the arrears had gone up from £6,600 (the equivalent of 6 months’ rent) to £11,000 (the equivalent of 10 months’ rent).

#### CMD

6. The CMD took place at 10am on 25 July 2019 at the Credo Centre, 14-20 John Street, Aberdeen. The applicants were not present, but were represented by their solicitor, Mrs Carly Stewart, of Messrs Aberdein Considine. The respondent was not present or represented. She had not lodged any written representations, and had had no contact with the Tribunal. The date and time of the Tribunal hearing had been intimated to her, by means of service by advertisement, in terms of rule 6A of the Procedure Rules. A certificate of service was produced to the Tribunal by Iain MacLean, Team Leader, Scottish Courts and Tribunals Service, confirming that service was carried out on the Chamber website between 12 June and 25 July 2019.

7. Mrs Stewart moved for the sum sought in the application to be increased to £11,000, under rule 14A. The Tribunal was content to grant that application, being satisfied that it had been intimated to the respondent by recorded delivery letter, more than 3 weeks before the hearing.

8. Thereafter Ms Stewart further moved for an order for payment to be granted in the amended sum of £11,000. In light of the documents produced, and in the absence of any representation by the respondent to the contrary, the Tribunal was satisfied that that this sum was lawfully due.

Decision

9. The Tribunal accordingly granted an order for payment in the sum of £11,000.

10. A separate decision has been made in relation to application FTS/HPC/EV/19/0803, to which reference is made.

**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.**

A.Stalker

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**Legal Member/Chair**

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**Date**

25/7/19