



**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/19/1580

Re: Property at 11 Bute Crescent, Old Kilpatrick, G60 5AW (“the Property”)

Parties:

**Mr Anthony McCauley, Mrs Paula McCauley, 99 Beverley Hill Street, Moorooka,
QLD 4105, Australia (“the Applicants”)**

**Miss Penelope MacLean, Mr Jonathan Smith, 13 Old Dalnottar Road, Old
Kilpatrick, G60 5HD (“the Respondents”)**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

This is an application for a payment order dated 21st May 2019 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants sought in their application payment of arrears in rental payments and recoverable costs of £2,051.00 in relation to the Property from the Respondents. The Applicants provided with their application copies of the short assured tenancy agreement and rent arrears statement.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondents have been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 26th July 2019, and the Tribunal was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held on 3rd September 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicants did not appear, but were represented by Miss Caldwell, paralegal. The Respondents did not appear, nor were they represented. The Respondents have not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was invited by Miss Caldwell with reference to the application and papers to grant an order for payment of the sum sought in the application. That sum is comprised of rent arrears of £2,482.00 for the period September, October and November 2016, from which is deducted £785.00 which the Applicants recovered from the tenancy deposit.

Miss Caldwell sought the additional sum of £354.00 in respect of the legal costs and expense incurred by the Applicants in bringing this application, which are recoverable in terms of clause 5.20 of the tenancy agreement, and provided an invoice from her firm for that amount.

Statement of Reasons

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicants) for payment of unpaid rental against a tenant (such as the Respondents) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the copy rent arrears statement and invoice provided, and Miss Caldwell's submissions, and was satisfied that this disclosed an outstanding balance due by the Respondents to the Applicants of £2,051.00.

Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondents to the Applicants of the sum of £2,051.00.

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.

N. Kinnear

Legal Member/Chair

03/09/19

Date