



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 70(1) of the Private Housing  
Tenancies (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/19/1927**

**Re: Property at 42B Holland Street, Aberdeen, AB25 3UL (“the Property”)**

**Parties:**

**Ms Pamela Scott, 62 Gillbrae, Dumfries (“the Applicant”)**

**Mr Kevin Barr, Mr Stephen Barr, 42B Holland Street, Aberdeen, AB25 3UL (“the Respondents”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of One thousand seven hundred pounds (£1725) against the Respondents.**

**Background**

- 1 By application dated 20 June 2019 the Applicant sought an order for payment against the Respondents in respect of unpaid rent in the sum of £575.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds to reject the application. A Case Management Discussion was therefore assigned for 16<sup>th</sup> August 2019.
- 3 The application paperwork together with notification of the Case Management Discussion was served on the Respondents by Sheriff Officers on 15<sup>th</sup> July 2019.
- 4 On 2 August 2019 the Applicant emailed the Tribunal requesting an amendment to the arrears sought. She produced a rent statement which

showed a balance of £1700 outstanding including late payment fees in the sum of £50.

### **The Case Management Discussion**

- 5 The Case Management Discussion took place on 16<sup>th</sup> August 2019 at the Credo Centre, Aberdeen. The Applicant was present. She produced an amended rent statement showing an additional late payment of £25 which brought the balance to £1725. On that basis the Legal Member agreed that the application could be amended to reflect the updated balance.
- 6 The Applicant advised that the Respondents had been in touch to offer a payment arrangement but that she had advised them to go through the Tribunal process in terms of making a time to pay application. They had failed to do so. The Applicant was therefore seeking an order for payment to protect her position. The Legal Member did advise that the granting of the order would not prevent ongoing discussions between the parties regarding payment.

### **Findings in Fact and Law**

- 7 The Parties entered into a Tenancy Agreement dated 13<sup>th</sup> and 14<sup>th</sup> March 2019.
- 8 In terms of Clause 8 of the said Agreement the Respondents agreed to make payment of rent in the sum of £550 per month.
- 9 In terms of Clause 37 of the said Agreement the Respondents agreed that any rent payment outstanding for more than four days would incur a penalty fee of £25.
- 10 The Respondents have failed to make payment despite repeated requests. As at the 16<sup>th</sup> August 2019 arrears in the sum of £1725 are outstanding, taking into account the penalty fees in the sum of £75.
- 11 The Respondents are therefore due to make payment to the Applicant in the sum of £1725.

### **Reasons for Decision**

- 12 The Tribunal was satisfied that it was able to continue with the Case Management Discussion in the absence of the Respondents. They had received service of the application by Sheriff Officers. The Tribunal therefore considered it could reasonably assume that they were aware of the Case Management Discussion and had been given the opportunity to attend.

- 13 The Tribunal was further satisfied that it was able to make a determination of the application at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties.
- 14 Based on the verbal and written representations from the Applicant, the Tribunal accepted that the Respondents were due to make payment of rent in the sum of £550 per month and has failed to do so. The Tribunal further accepted that the Respondents were contractually obliged to make payment of a fee of £75 in respect of late payments of rent. The Respondents had failed to put forward any evidence to counter the Applicant's position in this regard. The Tribunal therefore determined to make an order for payment against the Respondents in the sum of £1725.

### 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

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Legal Member/Chair

16/8/19  
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Date