



**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/19/2422**

**Re: Property at 8 Menock Road, Glasgow, G44 5UR (“the Property”)**

**Parties:**

**Mr Scott McGregor, Ms Tracey Hanrahan, 1/2 49 St Andrews Drive, Glasgow, G41 5JH; 3/1 595 Dumbarton Road, Clydebank, G81 4ET (“the Applicants”)**

**Mr Scott MacGregor, formerly residing at 8 Menock Road, Glasgow, G44 5UR, and whose present whereabouts are unknown (“the Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal Member)**

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

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

**Background**

This is an application for a payment order dated 26<sup>th</sup> July 2019 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) 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 of £3,480.00 due by the Respondent in respect of his tenancy of the Property until he vacated it in mid-July 2019.

The Applicants provided with their application copies of the private residential tenancy agreement and a rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent could not be validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal, as he could not be traced and his current whereabouts are unknown.

Service was validly effected by advertisement upon him in terms of Rule 6A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, and the Tribunal was provided with the Certificate of Service by advertisement.

### **Case Management Discussion**

A Case Management Discussion was held on 19<sup>th</sup> December 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The First Applicant appeared, and was not represented. The Second Applicant did not appear, but was represented by the First Applicant. The Respondent did not appear, nor was he represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was invited by the First Applicant with reference to the application and papers to grant an order for payment of the sum of £3,480.00, which is the amount of rent arrears outstanding. He confirmed that no further payments have been received from the Respondent since this application was lodged.

Monthly rent of £1,050.00 is due to be paid on the 2<sup>nd</sup> day of each month in terms of the private residential tenancy agreement. Arrears started to accumulate from November 2018, and latterly no payment has been received from the respondent in respect of the rent due for May, June and July 2019.

The First Respondent confirmed that the Respondent left the Property at some point in early July, and the Applicants regained possession on 14<sup>th</sup> July 2019. In an effort to assist the Respondent, the Applicants had accepted a reduced monthly rental of £1,000.00 per month with effect from February 2019 onwards. The Applicants pragmatically claimed £500.00 for the period 1<sup>st</sup> to 14<sup>th</sup> July.

### **Statement of Reasons**

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

#### **“First-tier Tribunal's jurisdiction**

(1) In relation to civil proceedings arising from a private residential tenancy—

- (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
  - (b) a sheriff does not have competence or jurisdiction.
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
- (a) the prosecution of a criminal offence,
  - (b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the tenancy agreement, the copy rent arrears statement provided, and the submissions made by the First Applicant, and was satisfied that these disclosed an outstanding balance of rent arrears in the sum sought of £3,480.00.

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 Respondent to the Applicants of the sum of £3,480.00.

### **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.**

Neil Kinnear

19/12/2019

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**Legal Member/Chair**

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**Date**