



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/19/2860**

**Re: Property at 31 McNaughton Drive, Kilmarnock, KA3 7NF (“the Property”)**

**Parties:**

**Mrs Margaret Allan, 16 Strawberrybank Road, Kilmarnock, KA3 7RT (“the Applicant”)**

**Mr Ryan Storrie, 31 McNaughton Drive, Kilmarnock, KA3 7NF (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an Order for Payment in the sum of ONE THOUSAND FOUR HUNDRED AND NINETEEN POUNDS AND NINETY-FIVE PENCE (£1419.95)**

**Background**

1. By application received on 11<sup>th</sup> September 2019 the applicant sought a payment order in the sum of £1719.95.
2. The application was heard jointly with an application seeking an order for eviction (FTS/HPC/EV/19/2858)
3. A comprehensive rent statement, copy lease, copy notice to the local authority and photos of the tenancy subjects had been lodged with the application.
4. A case management discussion (“cmd”) was held on 15<sup>th</sup> November 2019. The respondent failed to attend that cmd and contacted the tribunal

beforehand to advise that he was unwell. The tribunal adjourned the case to a second cmd on 9<sup>th</sup> December 2019 and issued a Direction requiring the respondent to lodge evidence of his ill health prior to the previous cmd.

5. The respondent failed to lodge any documents as requested in terms of the Direction issued by the tribunal.
6. The respondent did not attend the cmd on 9<sup>th</sup> December 2019. The applicant was represented at the cmd by Carol Dickie of Ardanach Lettings Ltd.
7. The tribunal was satisfied that the respondent had been given proper notice in terms of rule 24(1) and proceeded with the cmd in his absence in terms of rule 29.

### **The Case Management Discussion**

8. The applicant's representative advised the tribunal that the respondent had not paid any rent since June 2019. She advised that the outstanding arrears now stood at £2904.95. The tribunal enquired as to whether she wished to amend the amount sought in the application. The tribunal advised that such an amendment would require an adjournment to a further cmd to allow for formal intimation on the respondent in terms of rule 14a. The applicant's representative advised that she had emailed the tribunal with an updated rent statement seven days prior to the cmd however, there had been no intimation on the respondent as required by the rule.
9. The applicant's representative advised that she wished to proceed to obtain an order for payment at the cmd on 9<sup>th</sup> December 2019 as she was concerned at the lack of engagement from the respondent and hoped that an order for payment may lead him to take some action.
10. In the application the applicant also sought payment of £300 for damage to a mirrored wardrobe door and damage to a bath panel. At the cmd the applicant's representative advised that there had also been damage to the front door lock and she suspected that there was additional damage to the property. She advised that she had arranged to inspect the property on 10<sup>th</sup> December 2019.
11. The tribunal advised that prior to granting an order they would require to see vouching for the costs involved such as an estimate or invoice for the work. The tribunal also noted that the tenancy deposit of £594 was currently held in

a tenancy deposit scheme. The tribunal advised that the matter could be dealt with by the deposit scheme.

12. The applicant's representative advised that she would like to proceed with the payment order for rent arrears. She advised that she would consider lodging a new application in respect of any damage to the property after she had more information in relation to the level of damage, the costs of remedial work and the outcome of any determination by the tenancy deposit scheme.
13. The applicant's representative explained the rent account that had been lodged and the calculations which had resulted in the arrears figure of £1419.95.
14. The applicant's representative explained that the respondent had a history of rent arrears and had been assisted to clear the arrears balance on a number of occasions by the charity SSAFA. She confirmed that the respondent was employed as a fireman and that she had made attempts to engage with him to discuss the outstanding arrears without success.

#### **Findings in fact**

15. The applicant and the representative entered into a Private residential tenancy which commenced on 1<sup>st</sup> October 2018.
16. The respondent was a joint tenant with Fawn McGill. The respondent was joint and severally liable for all the obligations of the tenancy in terms of the tenancy agreement.
17. As at 1<sup>st</sup> September 2019 there were outstanding rent arrears of £1419.95.

#### **Reasons for the Decision**

18. The tribunal was satisfied that the arrears of rent as at 1<sup>st</sup> September 2019 amounted to £1419.95. The tribunal took into account the representations from the applicant and the documents which had been lodged, in particular the copy lease and rent account. The respondent did not attend and the tribunal had no reason to disbelieve the information provided by the applicant and her representative.

## Decision

The tribunal determined to grant an order for payment in the amount of £1419.95

## 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.

Mary - Claire Kelly  
Legal Member/Chair

9<sup>th</sup> December 2019  
Date