



**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/19/3478**

**Re: Property at Flat 0/2, 10 Mannering Court, Glasgow, G41 3QJ (“the Property”)**

**Parties:**

**Mr Alan Graham, Mrs Marissa Graham, 31 Gordon Road, Glasgow, G44 3TP (“the Applicants”)**

**Mr James David Walters, Flat 0/2, 10 Mannering Court, Glasgow, G41 3QJ (“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 28<sup>th</sup> October 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 originally sought in their application payment of arrears in rental payments of £2,773.44 as at the date of the application, but amended this figure in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended to £3,623.44, which would be the sum due by the date of the Case Management Discussion, by e-mailed letter dated 12<sup>th</sup> December 2019 which was intimated to the Tribunal and the Respondent.

The Applicants provided with their application copies of the private residential tenancy agreement and 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 had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 2<sup>nd</sup> December 2019, and the Tribunal was provided with the execution of service.

### **Case Management Discussion**

A Case Management Discussion was held on 9<sup>th</sup> January 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicants did not appear, but were represented by Miss Caldwell, paralegal. The Respondent did not appear, nor was he represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

Miss Caldwell provided the Tribunal with a further updated rent arrears statement to today's date confirming that rent arrears total £3,623.44, and invited the Tribunal with reference to the application and papers to grant an order for payment of that amount.

Monthly rent of £425.00 is due to be paid on the fifteenth day of each month in terms of clause 8 of the private residential tenancy agreement. No payment has been received from the Respondent in respect of the rental payments due for the last four months of the tenancy agreement.

### **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 private residential tenancy agreement, the copy updated rent arrears statement provided, and the submissions made by Miss Caldwell, and was satisfied that these disclosed an outstanding balance of rent arrears in the sum sought of £3,623.44.

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 Applicant of the sum of £3,623.44.

### **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

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**Legal Member/Chair**

09/01/20

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**Date**