



**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/21/0489

Re: Property at 148 St Fillans Road, Dundee, DD3 9LB (“the Property”)

Parties:

**Stephen Mackie, Christine Mackie, The Rowans, Bonnyton Road,
Auchterhouse, Dundee, DD3 0QT (“the Applicants”)**

Ms Nadine Keir, 148 St Fillans Road, Dundee, DD3 9LB (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

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

1. This is an application by the Applicants for civil proceedings in relation to an assured tenancy in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was an Assured Tenancy (said to be a Short Assured Tenancy) of the Property by the Applicants to the Respondent dated 23 June 2016.
2. The application was dated 3 March 2021 and lodged with the Tribunal that day. The application was accompanied with a rent statement showing purported arrears to 23 February 2021 of £1,062.53, the said arrears having developed since 12 October 2020 through sporadic payments of the monthly rent of £575. The rent was due on the 23rd of each month.

The Hearing

3. On 30 April 2021 at 10:00, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, we were addressed by the Applicants’ letting agent, David Wilkie, partner of The Property Management Company, Tayport.
4. There was no appearance by the Respondent. The Applicants’ agent stated that no contact had been received from the Respondent since the raising of the application. He explained that there had been little contact from her in general during the Tenancy though his office had met with her at the Property around a year ago when there was also a social worker (coincidentally) present and his office received some update on the Respondent’s home situation. At that time, the Applicants’ agent was told that the Respondent, who had two children that he knew of, had only one child living with her. This information confirmed the Applicants’ agent’s belief that a then-recent reduction in Housing Benefit payments was due to fewer members of the household residing.
5. The Applicants’ agent explained that the rent was always principally paid by Housing Benefit but, after this reduction, there had been a shortfall. The Respondent had made sporadic payments towards the shortfall along with a reasonably regular monthly payment of £27 by standing order. Two such payments had been received on 1 March and 29 March 2021, reducing the arrears in the statement. Further, since raising the application, a backdated Housing Benefit payment of £1,380.84 had been received. No current payment of Housing Benefit or other payment of rent had been received, however, and the rent of £575 due on 23 March and 23 April 2021 were now debited to the account. The current balance of arrears was reduced to £777.69.
6. Finally, the Applicants’ agent explained that since the raising of the application the local authority had made contact to say that the Respondent no longer resided at the Property and no further payments of Housing Benefit would thus be made.
7. The clerk confirmed that no contact had been received by the Tribunal from the Respondent. In the circumstances, having waited until 10:07 to start to CMD, we were satisfied to proceed in the absence of the Respondent.
8. The Applicants’ agent confirmed that the application for payment was still insisted upon but in the reduced amount of £777.69 with interest at 8% from the date of any order. No order for expenses was sought.

Findings in Fact

9. On 23 June 2016, the Applicants let the Property to the Respondent by lease with a start date of 23 June 2016 until 23 December 2016 to “continue thereafter on a periodic basis” (“the Tenancy”).
10. Under the Tenancy, the Respondent was to make payment of £575 per month in rent in advance to the Applicants on or before the 23rd of each month.

11. As of 23 February 2021, there was unpaid rent of £1,062.53 due by the Respondents to the Applicant in terms of the Tenancy in respect of shortfalls in payment and wholly missed payments for the rental payments due on 23 October, 23 November, and 23 December 2020 and 23 January and 23 February 2021.
12. On or about 3 March 2021, the Applicants raised proceedings for an order for outstanding rent due to 23 February 2021 in the sum of £1,062.53.
13. The Applicants have further debited rental sums of £575 on both 23 March and 23 April 2021 against the rental account.
14. The Respondent made payments of £27 on both 1 and 29 March 2021 which fall to be credited against the rental account.
15. The local authority made a payment of £1,380.84 on 7 April 2021 which falls to be credited against the rental account.
16. The balance of rent due by the Respondent to the Applicant as at 30 April 2021 is £777.69.
17. A Sheriff Officer acting on the instructions of the Tribunal served the application and intimation of the CMD upon the Respondent on 30 March 2021.
18. The Respondent provided no evidence of payment of any part of the said unpaid rent due to 30 April 2021 of £777.69.

Reasons for Decision

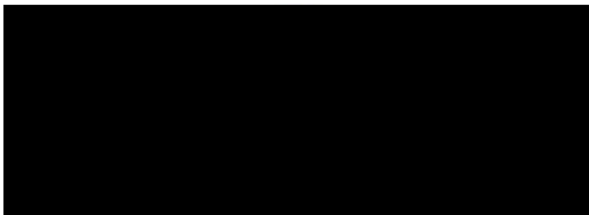
19. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. We were satisfied, on the basis of the application and supporting papers, that rent arrears in the reduced figure of £777.69 were outstanding for the period to 30 April 2021 and were thus outstanding at the date of the CMD. In all the circumstances, we were thus satisfied that the necessary level of evidence for such civil proceedings on the sum of £777.69 had been provided and no defence or dispute was made by the Respondent against this figure.
20. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and we were satisfied to make a decision at the CMD to award the sum of £777.69 against the Respondent along with judicial interest of 8% per annum on that sum from today's date until payment.
21. We noted that this sum related to rent due to 22 May 2021 and the Applicants thus reserved their position in regard to any further claim under the lease against the Respondent.

Decision

22. In all the circumstances, we were satisfied to make the decision to grant an order against the Respondent for payment of the sum of £777.69 to the Applicants with interest at 8% per annum from 30 April 2021 until payment.

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.



30 April 2021

Legal Member/Chair

Date