



**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/22/4365**

**Re: Property at 10 Firth Gardens, Barassie, Troon, KA10 6TQ (“the Property”)**

**Parties:**

**Jacqueline Webster, 36 Meddans Street, Troon, South Ayrshire; Dr James Forrester Morman, 16 Balcomie Crescent, Troon, South Ayrshire; and Pauline Ann Cosgrove, 13 Lang Road, Barassie, Troon, South Ayrshire (“the Applicants”)**

**Michael Proctor and Ms Margaret Campbell, both residing at 10 Firth Gardens, Barassie, Troon, KA10 6TQ (“the Respondents”)**

**Tribunal Members:**

**Joel Conn (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £8,745 be granted against the Respondents.**

**Background**

- 1) This was 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 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 Respondents commencing on 8 August 2014.
- 2) The application was dated 9 December 2022 and lodged with the Tribunal on that date. The application sought payment of arrears of £4,770 due to 8 December 2022 and was accompanied by a rent statement showing missed rental payments of £795 a month from 8 July 2022 (six missed payments in

total). The lease for the Tenancy accompanied the application and it detailed a rental payment of £795 payable in advance on the 8<sup>th</sup> of each month.

- 3) Prior to the case management discussion (“CMD”), a number of requests for amendment were made by the Applicants’ agent, in regard to increasing arrears in the period between lodging the application and the date of the CMD. The final request for amendment was lodged on 12 May 2023 (and I was told crossed over to the Respondents by post on 17 May 2023) seeking to increase the sum sought to £8,745. It was accompanied by a further rent statement, showing no further rent payments had been made and so arrears of 11 months were now outstanding (for the rental payment dates of 8 July 2022 to 8 May 2022).

### **The Hearing**

- 4) The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 20 March 2023 at 10:00. I was addressed by the Applicants’ solicitor, Andrew Stevenson, Waddell & Mackintosh. There was no appearance from the Respondents.
- 5) I was informed by the clerk that no contact had been received from the Respondents (or on their behalf) with the Tribunal. The Applicants’ agent said that there had been no recent contact from the Respondents and they were not engaging on the issue of the arrears (or on any subject). He knew of no reason for non-payment nor of any dispute. He said that a Notice to Quit had now been issued and separate steps were being taken to seek eviction.
- 6) I considered that the Respondents had received clear intimation of the CMD from Sheriff Officers. Having not commenced the CMD until around 10:05, I was satisfied to consider the application in the Respondents’ absence. In any case, no attempt was made by the Respondents to dial in late to the CMD.
- 7) At the CMD, the Applicant’s agent confirmed that the application was still insisted upon, that there had been no payments against the arrears, and he moved to amend the sum sued for to £8,745 as per the last request for an amendment lodged with the Tribunal. He confirmed that these arrears covered the period 8 July 2022 to 7 June 2023.
- 8) The Applicants’ agent moved for interest at 8% from the date of the decision. No motion was made for expenses.

### **Findings in Fact**

- 9) On 8 August 2014 the Applicants let the Property as an Assured Tenancy (said to be a Short Assured Tenancy) to the Respondents under a lease with commencement on 8 August 2014, and “expiring on the 08 February 2014 and from month to month thereafter calculated to the 8<sup>th</sup> of each month” (“the Tenancy”).

- 10) In terms of definitions clause of the Tenancy Agreement, the Respondent required to pay rent of £795 a month in advance on the 8<sup>th</sup> day of each month.
- 11) As of 9 December 2022, there was unpaid rent of £4,770 being unpaid rent due for the period 8 July 2022 to 7 January 2023, being six unpaid months of rent at £795 per month.
- 12) On 9 December 2022, the Applicants raised proceedings against the Respondents for an order for payment of the rent arrears of £4,770 for rent due to 7 January 2023.
- 13) On 14 April 2023, the Tribunal intimated to the Respondents the date and time of the CMD of 22 May 2023 by Sheriff Officer.
- 14) As at 22 May 2023, there was unpaid rent of £8,745 being unpaid rent due for the period 8 July 2022 to 7 June 2023, being 11 unpaid months of rent at £795 per month.
- 15) The Respondents provided no evidence of payment of any part of the said unpaid rent of £8,745 for the period to 7 June 2023.

### **Reasons for Decision**

- 16) The application was in terms of rule 70, being an order for civil proceedings in relation to an assured tenancy. I was satisfied, on the basis of the application and supporting papers, and those papers supporting the amendment, that rent arrears of £8,745 were due for the period to 7 June 2023 and remained outstanding as of today.
- 17) I accepted that an amendment had been intimated by the Tribunal on the Respondents, being the latest of a number of amendment requests lodged by the Applicants, and was satisfied to grant the amendment to increase the sum sought.
- 18) If the Respondents believed that they had grounds to retain or dispute the rent, they took no steps to advance their position. The application, as amended, clearly set out the sums and I was satisfied that the necessary level of evidence for these civil proceedings had been provided. No dispute was stated by or on behalf of the Respondent.
- 19) The 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. I was thus satisfied to make a decision at the CMD to award the sum of £8,745, being an order restricted to sums due under the Tenancy in regard to rent up to 7 June 2023, with interest at 8% from today's date.

## **Decision**

20) In all the circumstances, I was satisfied to make the decision to grant an order against the Respondents for payment of £8,745 plus interest at 8% from 22 May 2023 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.**



22 May 2023

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**Legal Member/Chair**

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**Date**