



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

Chamber Ref: FTS/HPC/CV/22/1771

Re: Property at 25 Braidwood Place, Linwood, Paisley, PA3 3SW (“the Property”)

Parties:

**Mr Scott David Evans and Mrs Kayleigh Diane Evans, Havjarl, Montfield,
Lerwick, Shetland, ZE1 0QA (“the Applicants”)**

**Ms Katherine Gordon, Messrs Anderson and Goodlad, Solicitors, 52
Commercial Street, Lerwick, Shetland, ZE1 OBD (Applicants’ Representative)**

**Miss Zoe Smith, 25 Braidwood Place, Linwood, Paisley, PA3 3SW (“the
Respondent”)**

Tribunal Members:

**Martin McAllister (Legal Member) and Elizabeth Williams (Ordinary Member)
 (“the tribunal”)**

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Respondent pays the sum of SIX THOUSAND
THREE HUNDRED AND THIRTY ONE POUNDS SEVENTEEN PENCE (£6,331.17)
to the Applicants**

Background

- 1. This is an application for payment. In the application, an order for
payment was sought in respect of rent arrears of £6,300.00**
- 2. Prior to the case management discussion, the Applicants’ Representative
submitted an up to date rent statement projected to 9th December 2022
which showed the amount of arrears to be £6,570.90.**

3. An application for an order of eviction (FTS/HPC/EV/22/1608) was dealt with at the same time.

Case Management Discussion

4. A case management discussion was held by teleconference on 6th October 2022 at which the sum claimed was amended to £5,632.42 in terms of Rule 14A of the Rules.

The Hearing

5. A Hearing was held by audio conference on 30th November 2022. The Applicants were present and were represented by Ms Katherine Gordon, solicitor. There was no appearance by the Respondent.

Preliminary Matters

6. Commencement of the Hearing was delayed until 10.10 am. There was no appearance by the Respondent. It was noted that she had been present on 6th October 2022 when the date for the Hearing had been fixed. It was further noted that the Tribunal had sent a recorded delivery letter to the Respondent dated 25th October 2022 which had been signed for on 28th October 2022 and that the letter provided confirmation of the date of the Hearing and information on participating in it. The Applicant's Representative had sent a letter by email to the Tribunal on 16th November 2022 with various attachments and productions. That email had been copied to the Respondent and her advocacy worker. The letter made reference to the case next calling on 30th November 2022. In the circumstances, the tribunal considered it appropriate to proceed with the Hearing.
7. Ms Gordon sought to amend the sum claimed and referred to the updated rent statement which she had submitted to the Tribunal on 16th November 2022 and which she had copied to the Respondent and her advocacy worker. She said that, subsequent to the statement being prepared, a payment had been received from Housing Benefit. Ms Gordon accepted that it would not be appropriate to make any order for payment of rent for a period after the date of the Hearing. She said that the rent arrears to 30th November 2022 were £6,331.17 and she sought for the sum claimed to be amended to that figure in terms of Rule 14A of the Rules. The tribunal agreed to do so and considered that there was no prejudice to the Respondent because the updated rent statement which had been intimated to her prior to the Hearing showed a sum of £6,570.90 which was more than the sum now sought by the Applicants.

8. Findings in Fact

8.1 The Respondent is a tenant of the Property in terms of a private residential tenancy agreement dated 16th August 2020.

8.2 The monthly rent for the Property is £700.

8.3 The Respondent is in arrears of rent of £6,331.17.

Reasons

- 9. The tribunal had a copy of the rent statement showing projected rent due to 7th January 2022.**
- 10. The tribunal has a copy of a private residential tenancy agreement dated 16th August 2020 in respect of the Property which disclosed a monthly rent of £700.**

Discussion

- 11. There was no appearance by the Respondent but the tribunal had regard to what she had said at the case management discussion. She could not confirm that the level of rent arrears claimed was accurate but accepted that, from August 2021 to February 2022, she had been in receipt of Housing Benefit and had not paid anything in respect of rent for that period.**
- 12. At the case management discussion, the Respondent said that she had held rent back because of the condition of the Property but no longer had the funds which she had retained. She had said that she had copies of messages which had been sent to the Applicants with regard to defects in the Property. No copy messages had been submitted by the Respondent to the Tribunal prior to the Hearing. It was the Respondent's position that she had never denied access to the Applicants or their contractors.**
- 13. Ms Gordon referred to documents she had submitted which, she said, evidenced that attempts had been made to obtain access for inspections to be done to assess any works which might be necessary. These were letters, emails and messages dated from 2020, 2021 and 2022.**
- 14. The tribunal found that there were rent arrears amounting to £6,331.17.**
- 15. At the case management discussion, the Respondent had effectively been submitting that there should be abatement of rent. An outcome of the case management discussion was that the Respondent should submit any documentary evidence which she had to substantiate her position that there were defects with the Property and that, as a consequence, the Respondent should not be held responsible for the whole of the rent arrears. She has not done so.**

16. The tribunal found that there was no reason not to find the Respondent liable for the whole sum of rent arrears amounting to £6,331.17.

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.

**Martin J. McAllister
Legal Member
30th November 2022**