



**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/18/1061**

**Re: Property at 25 George Court, Irvine, KA12 0PJ (“the Property”)**

**Parties:**

**Mr Raymond Cuckow, 12 Douglas Grove, Lower Bourne, Farnham, GU10 3HP (“the Applicant”)**

**Mrs Jodie Hamill & Mr Stephen Hamill, 25 George Court, Irvine, KA12 0PJ (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member)**

**Outcome**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Order for payment should be granted in the sum of £5,202.**

**Background**

The Applicant submitted an application seeking an order for payment from the Respondents in the sum of £3,900. That sum related to arrears of rent arising from the tenancy agreement between the parties in respect of the property at 25 George Court, Irvine, KA12 0PJ, together with the costs associated with these proceedings. The Tribunal intimated the application to the Respondents on 29<sup>th</sup> June 2018 and advised them of the date, time and place of a case management discussion which took place on 30<sup>th</sup> July 2018. Reference is made to the note detailing the outcome of that case management discussion. The Respondents were advised that they required to attend today’s case management discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair.

### **The Case Management Discussion**

The Applicant was represented by Miss McFarlane, Solicitor. The case management discussion took place in the absence of the Respondents. The Applicant sought an order for payment in the increased sum of £5,202. That sum was made up of rent arrears amounting to £4,383 and legal fees of £819. The Tribunal sought evidence of notice having been given to the Respondents that the sum sought would be increased. Miss McFarlane produced a copy of a letter issued by her firm to each Respondent dated 21<sup>st</sup> August 2018, which was sent by recorded delivery post. Those letters included a rental statement showing rent arrears amounting to £4,383 and a copy of an invoice issued by Mair Matheson solicitors to the Applicant in the sum of £819. Miss McFarlane directed the Tribunal to the short assured tenancy which has been produced and in particular, to clause 34; that clause obliges the Respondents to pay all costs and expenses incurred by the Applicant in respect of enforcement of the tenancy agreement.

### **Findings in Fact:**

1. The Applicant and the Respondents entered into a successive Tenancy Agreements the last of which was to subsist from 28<sup>th</sup> August 2017 to 28<sup>th</sup> February 2018.
2. The rent payable was £450 per calender month, payable in advance.
3. The rent arrears due as at 15<sup>th</sup> August 2018 amounted to £4,383.
4. The Applicant incurred legal fees, inclusive of vat, of £819 in respect of advice regarding a claim for payment of rent arrears and an application to the Tribunal.

### **Reason for Decision**

The Tribunal proceeded on the basis of the written documents which were before it and the submissions made by the Applicant's solicitor. The Applicant's solicitor invited the Tribunal to make the Order sought for payment in the sum of £5,202. The Tribunal was satisfied that the Respondents are contractually bound to pay the Applicant all costs and expenses in respect of enforcement of the tenancy agreement. There was nothing before the Tribunal challenging or disputing any of the evidence before it. The Tribunal was satisfied that the sums sought by the Applicant are due and therefore the Order was granted.

## 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

NICOLA IRVINE

Legal Member/Chair

23.08.2018  
Date