



**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/20/0604

Re: Property at 40 Beaulieu Place, East Kilbride, G74 1DD (“the Property”)

Parties:

**Miss Robyn Park, Mr Andrew Park, Mr Neil Park, 31 St Vincent Crescent,
Glasgow, G3 8BG; 66 Callaghan Crescent, East Kilbride, G74 5PS; 20 Bellwood
Street, Glasgow, G41 3ER (“the Applicants”)**

**Miss Kelly McCarthy, Mr Andrew McCann, 40 Beaulieu Place, East Kilbride, G74
1DD (“the Respondents”)**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondents)

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

Background

This is an application for a payment order dated 18th February 2020 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants originally sought payment of arrears in rental payments of £2,700.00 with contractual interest thereon in relation to the Property from the Respondents, and provided with their application copies of a short assured tenancy agreement and a rent arrears statement.

The Applicants subsequently on 14th July 2020 amended the sum sought in this application in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and*

Property Chamber (Procedure) Regulations 2017 as amended to £4,950.00 with contractual interest thereon. That amended figure represents the total arrears of rent calculated to the date of the forthcoming Case Management Discussion, and its calculation is shown on an updated rent arrears statement which the Applicants provided.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 24th June 2020, and the Tribunal was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 31st July 2020 by Tele-Conference. The Applicants did not participate, but were represented by Miss Donnelly, solicitor. The Respondents did not participate, nor were they represented. The Respondents have not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Miss Donnelly with reference to the application and papers to grant an order for payment of the sum of £4,950.00 with contractual interest thereon in terms of clause 2.2 of the tenancy agreement. That clause provides that the landlord is entitled to charge interest (calculated from day to day) at 3% over the Bank of England or Royal Bank of Scotland base rate on late payments of rent.

Statement of Reasons

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2)But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3)Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal has jurisdiction in relation to claims by a landlord (such as the Applicants) for payment of unpaid rental against a tenant (such as the Respondents) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the rent arrears statement, and Miss Donnelly’s submissions, and was satisfied that this disclosed an outstanding balance due by the Respondents to the Applicants in respect of rent arrears of £4,950.00 with interest (calculated from day to day) at 3% over the Bank of England or Royal Bank of Scotland base rate. Rental of £450.00 is chargeable in terms of clause 1.9 of the tenancy agreement, and interest may be charged thereon in terms of clause 2.2.

Accordingly, the Tribunal shall make an order for payment of the sum sought.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondents jointly and severally to the Applicants of the sum of £4,950.00 with interest thereon (calculated from day to day) at 3% over the Bank of England or Royal Bank of Scotland base rate payable on any instalment of rent which is not paid on the due date, from the date due 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.

N Kinnear

31/07/2020

Legal Member/Chair

Date

