



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

**Chamber Ref: FTS/HPC/CV/20/0216**

**Re: Property at Flat 2/1, 77 Bridge of Weir Road, Linwood, PA3 3ER (“the Property”)**

**Parties:**

**Mr Iain Bermingham, Mrs Hazel Bermingham, 34 Ladeside Gardens, Kilbirnie, KA25 7EA (“the Applicant”)**

**Mr Finlay Carson, Mr Michael McLaughlin, formerly residing at Flat 2/1, 77 Bridge of Weir Road, Linwood and whose present whereabouts are unknown (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member)**

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

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

**Background**

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment in relation to unpaid rent.
2. The application contained:-
  - a copy of the tenancy agreement and
  - bank statements
3. At today’s case management discussion, the Applicants appeared. There was no appearance by the Respondents. I was satisfied that service on the

Respondents had taken place by advertisement and I was therefore prepared to proceed with the case management discussion in their absence.

4. There had been a previous case management discussion when the Applicants indicated that they wanted to amend the sum sued, they advised that the rent arrears had increased. The case was continued for them to intimate this amendment to the Respondents. On 12 August 2020 the Applicants submitted to the Tribunal Office confirmation of the sum now outstanding, £5150 in respect of the arrears and provided bank statements showing payments had not been made.

#### Discussion

5. The Applicants advised that the rent arrears were still outstanding. The Respondents had left the property sometime in August 2020 and at that time the rent arrears were £5150. The last payment made towards rent was in September 2019; and there had been no further payments since that date.
6. The Applicants advised that they had made numerous attempts to contact the Respondents to seek repayment of the rent arrears. The attempts to obtain repayment had been unsuccessful. They had written and sent emails to them and tried to contact them but they did not engage with us.
7. The Applicants advised that the rent arrears were still outstanding and amounted to £5150. The Applicants sought an order for this sum.

#### Findings in Fact

8. The Tribunal found the following facts to be established:
  - a) A tenancy agreement was entered into between the Applicants and the Respondents for the property. It commenced on 8 August 2019. It ended in around August 2020.
  - b) Clause 7 of the tenancy agreement provided that monthly rent was £515.
  - c) The bank statement showed that two rent payments in relation to the tenancy had been made in August and September 2019 and no further payments had been made after that date.
  - d) That the Respondents had not made any payments towards the arrears since September 2019.
  - e) That rent arrears up to August 2020, totalled £5150.

#### Reasons for Decision

9. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is a private residential tenancy, I am content that I have jurisdiction to deal with this case.
10. The tenancy agreement created obligations between the parties including, the obligation to pay rent. The Respondents had failed to make these payments.
11. Based on the evidence submitted and having regard to all papers submitted including the application, I consider that I should make a payment order of £5150.
12. Decision
13. I grant an order in favour of the Applicants for the Sum of FIVE THOUSAND ONE HUNDRED AND FIFTY POUNDS (£5150) STERLING

### **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.**

Melanie Barbour

**27 November 2020**

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**Legal Member/Chair**

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**Date**