



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/20/1984**

**Re: Property at 1 Strathtyre Walk, Dundee, DD5 3WJ (“the Property”)**

**Parties:**

**Mr Brian Behr, Mrs Rosalind Lou Behr, 6 Strathern Road, Dundee, DD5 1NL (“the Applicants”)**

**Mr Kevin Howard, Ms Linzi Ross, 1 Strathtyre Walk, Dundee, DD5 3WS (“the Respondents”)**

**Tribunal Members:**

**Helen Forbes (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 should be granted in favour of the Applicants in the sum of £4100 with interest thereon at 8% per annum from the date of the decision until payment.**

**Background**

1. This is an application dated 10<sup>th</sup> September 2020, made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicants’ representative lodged a copy of a private residential tenancy agreement in respect of the Property which commenced on 8<sup>th</sup> May 2018, a rent statement showing an outstanding balance of £4100 in rent arrears, and copy letter to the Respondents. The monthly rent is £1000.
2. By letter dated 26<sup>th</sup> October 2020, parties were notified of a CMD set down for 10<sup>th</sup> December 2020. Service upon the Respondents was carried out by sheriff officers on 28<sup>th</sup> October 2020.
3. By email dated 8<sup>th</sup> December 2020, the Applicants’ representative lodged an updated rent statement showing a balance outstanding of £4600.

## **Case Management Discussion**

4. A Case Management Discussion (“CMD”) took place by telephone conference on 10<sup>th</sup> December 2020. The Applicants were not in attendance and were represented by Mr Alec Campbell of Lara Letting. The Respondents were not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondents had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondents.
6. Mr Campbell explained that the sum outstanding was now £5600 as a further month’s rent became due on 8<sup>th</sup> December 2020. Mr Campbell moved for an order for payment in the sum of £5600 with interest at 8% and reasonable costs as provided for in clause 8 of the tenancy agreement between the parties.
7. The Tribunal explained that any application to amend the sum sought would require to be served on the Respondents not sooner than 14 days before any CMD, in accordance with Rule 14A. With regard to costs, although this is provided for within the tenancy agreement, the Applicants would require to specify a sum and provide a breakdown and any available vouching. This would also require to be served upon the Respondents as part of any application to amend the sum sought.
8. There was some discussion about the possibility of continuing the CMD to allow the Applicants’ representative to make an application to increase the sum sought. Mr Campbell considered this matter and decided to move for an order for payment in the sum of £4100 with interest thereon at 8%.

## **Findings in Fact**

9.
  - (i) Parties entered into a private residential tenancy agreement in respect of the Property commencing on 8<sup>th</sup> May 2018 with a monthly rent of £1000.
  - (ii) Rent lawfully due in terms of the tenancy agreement between the parties has not been paid by the Respondents.
  - (iii) The Applicants are entitled to recover rent lawfully due.
  - (iv) In terms of the tenancy agreement between the parties, interest on late payment of rent may be charged at 8% per annum.

## **Reasons for Decision**

10. The Respondents have failed to make payment of rent lawfully due. The Applicants are entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

## **Decision**

11. An order for payment is granted in favour of the Applicants in the sum of £4100 with interest thereon at 8% per annum from the date of granting the order.

## **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.**

**Helen Forbes**

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Legal Member/Chair

10<sup>th</sup> December 2020  
Date