



**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/21/0148**

**Re: Property at 69 Barbeth Road, Condorrat, Cumbernauld, G67 4SH (“the Property”)**

**Parties:**

**Heather Derrick, Steven Derrick, Hurley House, 20 Belmont Road, Ipstones, Stoke on Trent, ST10 2JN (“the Applicant”)**

**Mr Gavin McKay, 69 Barbeth Road, Condorrat, Cumbernauld, G67 4SH (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £5670.00.**

**Background**

1. By application dated 20 January 2021 the Applicants’ representatives Gilson Gray, Solicitors, Edinburgh applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicants’ representatives submitted a copy of the tenancy agreement together with a statement of rent arrears in support of the application.
2. By Notice of Acceptance dated 28 January 2021 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was sent to the Applicants' representatives by post and was served on the Respondent by Sheriff Officers on 9 February 2021.
4. By email dated 24 February 2021 the Applicants' representatives sought to amend the sum claimed to £5625.00.
5. A Case Management Discussion was held on 11 March 2021. It was noted that the heritable proprietor of the property was Communications Unleashed Limited a limited company of which the Applicants were Directors and that this company appeared as landlord on the Landlord register. As a result, the Case Management Discussion was continued for clarification of the Applicants' title.
6. By email dated 14 April 2021 the Applicants' representatives submitted further written representations including a request to amend the sum claimed to £5670.00.

### **The Case Management Discussion**

7. A Case Management Discussion was held by teleconference on 28 April 2021. The Applicants did not attend but were represented by Mr Scott Runciman of Gilson Gray, Solicitors. The Respondent did not attend. The Tribunal being satisfied that intimation of the Case Management Discussion had been sent to the Respondent by post determined to proceed in his absence.
8. Mr Runciman referred the Tribunal to the letter from Mrs Derrick in her capacity as a director of Communications Unleashed Limited confirming that the Applicants had the company's authority to act as its representative and to act as landlords of the property and to enter into the tenancy agreement. The Tribunal noted that the Applicants were now also registered as individuals on the Landlord Register. Mr Runciman explained that there had been an error by the letting agents when the tenancy agreement had been prepared. He said that despite the tenancy running in the name of the Applicants all the rent had been paid into the company account.
9. Mr Runciman went on to refer the Tribunal to the rent arrears statement submitted with the application to amend the sum claimed to £5670.00 he confirmed that the amendment had been intimated to the Respondent both by email and by recorded delivery post and referred the Tribunal to the documents submitted. He asked the Tribunal to grant an order for payment in the sum of £5670.00.

### **Findings in Fact**

10. The parties entered into a Private Residential Tenancy Agreement that commenced on 24 September 2018 at a monthly rent of £375.00.
11. The property is owned by Communications Unleashed Limited.

12. The Applicants are directors of Communications Unleashed Limited.
13. Communications Unleashed Limited has authorised the Applicants to act on its behalf and to act as landlords of the property.
14. The Respondent is due rent to the Applicants in the sum of £5670.00.

### **Reasons for Decision**

15. The Tribunal was satisfied that the Applicants had authority from the heritable proprietor of the property to enter into a tenancy agreement with the Respondent. The Tribunal was also satisfied from the documents submitted that there was an agreement between the parties that the rent due amounted to £375.00 per month.
16. The Tribunal was satisfied from the rent statement that the Respondent had fallen into arrears in July 2019 and had made intermittent payments thereafter resulting in the rent due by the Respondent at 24 March 2021 amounting to £5670.00.
17. The Tribunal was satisfied it had sufficient information before it to allow it to make a decision without the need for a hearing.

### **Decision**

18. Having considered the written and oral submission made on behalf of the Applicants the Tribunal finds the Applicants entitled to an order for payment by the Respondent in the sum of £5670.00.

### **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.**

**Graham Harding**

**Graham Harding  
Legal Member/Chair**

**28 April 2021  
Date**