



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/CV/21/0977**

**Re: Property at 9 Arnott Road, Blackford, Perthshire, PH4 1QE (“the Property”)**

**Parties:**

**Mr Graham McNaughton, Mrs Gillian Brown, Mill Lade, Moray Street, Blackford, PH4 1QP; Lucknow, Abercairney Place, Blackford, Perthshire, PH4 1QB (“the Applicant”)**

**Mr Robert Murray, 14 Abercairney Close, Blackford, Perthshire, PH4 1PX (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member)**

**Decision**

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

**BACKGROUND**

1. The Applicants were previously Landlords of the property, the Respondent being the tenant, in terms of a Lease dated 30 June 2017;
2. The tenancy ended on 8 December 2020;
3. Rent was payable at the rate of £500 per calendar month. As at the date of termination of the tenancy the total amount outstanding by way of rent was £8,615.38. The Applicants had, however, previously received an Order for payment from the Tribunal in the sum of £3,500. Accordingly, the amount for which an Order is now sought was the balance of £5,115.38;

4. The Respondent accepted that he had not been making payment of rent since 30 June 2019 and did not dispute the total balance due nor the fact that a previous Payment Order had been granted against him for part of that;

## **THE HEARING/CASE MANAGEMENT DISCUSSION**

5. The Case Management Discussion was held on 21 June 2021 by Teleconference. Mr Graham McNaughton did not participate in the Case Management Discussion. Mrs Gillian Brown attended the proceedings on behalf of both Applicants. Mr Murray attended personally;
6. Mr Murray accepted that he had not paid rent for a significant period of time and did not dispute the total amount outstanding of £8,615.38. He disputed, however, that he should be required to make payment at all and stated that he was not paying on the basis of “events” which had taken place;
7. Mr Murray made reference to members of his family being harassed by the Applicants and also made reference to repairs at the property which were required but never undertaken. He advised that that these had been a longstanding issue and, in particular, made reference to the heating never working, blue water running from one of the taps within the property and, at a later stage, made reference to an issue with a lock on a door;
8. Mr Murray accepted that he had never intimated any of these defects to the Applicants, he had never intimated that he was withholding rent on the basis of any such defects and he accepted that he had not set the money aside for payment to be made when any repairs were carried out nor that he had not made payment upon termination of the tenancy;
9. Mr Murray accepted that there had been a Case Management Discussion held on 13 January 2020, at which point arrears amounted to £3,500. At that stage Mr Murray advised the Tribunal that there was no reason for the Tribunal not to grant an Order for Payment. On that occasion he advised the Tribunal that he had got himself into financial difficulties, he had recently started claiming benefits, at that particular time he had no income and he alluded to certain health problems. In particular, no reference was made at that stage to any defects in the property nor any repairs which were required;
10. As the Case Management Discussion progressed, Mr Murray made reference to the following:-
  - a. Certain health problems which affected his day to day functioning;

- b. He was, during the relevant period, “always out of my face”;
- c. He referred to himself as “a complete arsehole” and indicated that others had stated that to him;
- d. He said he “did what I needed to do to keep a roof over my head”;
- e. He sought assistance from the Local Authority to secure alternative accommodation;
- f. He was currently unemployed, had no income and was being supported by friends and family;

## **FINDINGS IN FACT**

11. The Tribunal found the following facts to be admitted or proved:-
- a) The Applicants were previously Landlords of the property, the Respondent being the tenant, in terms of a Lease dated 30 June 2017;
  - b) The tenancy ended on 8 December 2020;
  - c) Rent was payable at the rate of £500 per calendar month. As at the date of termination of the tenancy the total amount outstanding by way of rent was £8,615.38;
  - d) The Applicants had previously been granted an order for payment from the Tribunal in the sum of £3,500. A balance of £5,115.38 was due by the Respondent to the Applicant;
  - e) The Respondent deliberately stopped payment of rent without lawful authority;

## **REASONS FOR DECISION**

12. There was no dispute between the parties that rent had not been paid since June 2019 and that, as at the date of termination of the tenancy, that being 8 December 2020, the total amount outstanding was £8,615.38;
13. The Tribunal had previously granted an Order for payment of £3,500, meaning the balance for which a further Order for payment was sought was £5,115.38;
14. While the Respondent had stated that he had not made payment of the rent, it became clear that his reasons for doing so related to a number of personal issues which did not give rise to any legal right to withhold rent;
15. While the Respondent made reference to certain defects within the property, it was accepted by him that he had never intimated these to the Applicants, that he had never intimated that he was withholding rent as a result of any such defects, that he had not kept

rent aside pending any repairs being undertaken and that he had not paid any rent arrears upon termination of the tenancy;

16. Even if the Respondent had been withholding payment of rent as a result of repairs being required at the property, his right to do so would terminate when the tenancy ended, at which point payment of all rent arrears would fall to be made (*Pacitti v Manganiello* 1995 SCLR (Notes) 557);
17. The Respondent did not seek a time to pay direction.

## **DECISION**

The Tribunal granted an order against the Respondent for payment of the sum of FIVE THOUSAND ONE HUNDRED AND FIFTEEN POUNDS AND THIRTY EIGHT PENCE (£5,115.38) STERLING to the Applicants

### **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.**

Virgil Crawford

**21 June 2021**

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**Legal Member/Chair**

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**Date**