



**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) 2016 Act**

**Chamber Ref: FTS/HPC/CV/21/1174**

**Re: Property at 49 Linkwood Road, The Rushes, Airdrie, ML6 6GP (“the Property”)**

**Parties:**

**Mr Simon Mousley, Ms Lindsay Gibson, 11 Gales Park, Bothwell, G71 8TS (“the Applicants”)**

**Mr Richie Hugh Jeffrey, Mrs Stephanie Jeffrey, 49 Linkwood Road, The Rushes, Airdrie, ML6 6GP; 49 Linkwood Road, The Rushes, Airdrie, ML6 6GP (“the Respondents”)**

**Tribunal Members:**

**Joel Conn (Legal Member) and Ann Moore (Ordinary Member)**

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

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

**Background**

1. This was an application by the Applicants for civil proceedings in relation to an assured tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy of the Property by the Applicants to the Respondents commencing on 20 July 2018.
2. The application was dated 14 May 2021 and lodged with the Tribunal on that date. The application was accompanied by a rent statement setting out arrears of £6,000, being sums that had principally accumulated due to irregular payments in the period from September 2020 to February 2021 resulting in 6 missed rental payments. The lease for the tenancy accompanied the

application and detailed a rental payment of £1,000 payable in advance on the 20<sup>th</sup> each month.

### **The Hearing**

3. On 6 July 2021 at 10:00, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, we were addressed by the Applicants’ agent, Shabeilla Saddiq, solicitor, of TCH Law solicitors.
4. There was no appearance by the Respondents. The Applicants’ agent stated that no contact had been received from the Respondents since the raising of the application. The clerk confirmed that no contact had been received by the Tribunal from the Respondents. In the circumstances, having waited until around 10:09, we were satisfied to proceed in the absence of the Respondents.
5. The Applicants’ agent confirmed that the application was still insisted upon and sought to amend the sum sought to £7,000 due as of 28 May 2021 to include a further missed rent payment due on 20 May 2021. This amount was included in a revised statement of arrears that had been provided by email on 14 June 2021 and had already been crossed over to the Respondents. We granted the amendment.
6. Due to the lack of contact from the Respondents, the Applicants’ agent had no information on the reason for the arrears. There was a conjoined application for eviction but on a ground unconnected with the arrears.
7. The Applicants’ agent sought interest on the sum under Procedure Rule 41A at 8% per annum from the date of Decision as an appropriate rate. There was no contractual interest rate in the Tenancy Agreement. No motion seeking expenses was made.

### **Findings in Fact**

8. On 20 July 2018, the Applicants let the Property to the Respondents by lease with a start date of that date under a Private Residential Tenancy (“the Tenancy”).
9. Under the Tenancy, in terms of clause 8, the Respondents were to make payment of £1,000 per month in rent to the Applicants in advance, being a payment by the 1<sup>st</sup> of each month to cover the month to follow.
10. As of 28 May 2021, there was unpaid rent of £7,000 being made up of seven months of missed rental payments, principally between September 2020 and February 2021 plus a missed payment on 20 May 2021.
11. On 14 May 2021, the Applicants raised proceedings against the Respondents for an order for payment of rent arrears (then of £6,000).

12. On 2 June 2021, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondents, providing the Respondents with sufficient notice of the CMD of 6 July 2021 and the details for dialling into the conference call.
13. The Respondents provided no evidence of payment of any part of the said unpaid rent to 28 May 2021 of £7,000.

### **Reasons for Decision**

14. The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. We were satisfied, on the basis of the application and supporting papers, that rent arrears of £7,000 were outstanding as of 28 May 2021.
15. As the application clearly set out the sums, we were satisfied that the necessary level of evidence for such civil proceedings had been provided. No dispute was stated by or on behalf of the Respondents. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and we were satisfied to make a decision at the CMD to award the amended sum of £7,000 against the Respondents.
16. We were satisfied that it was appropriate to award interest from the date of Decision at 8% per annum as an appropriate interest rate.
17. We note that the application was limited to the rent arrears due under the lease to 28 May 2021 and this Decision does not preclude any future application by the Applicants in regard to any further claim under the lease against the Respondents regarding any other potential breach of the lease or arrears for any later period.

### **Decision**

18. In all the circumstances, we were satisfied to make the decision to grant an order against the Respondents for payment of £7,000 with interest at 8% per annum running from today's date.

## **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.**

6 July 2021

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**Legal Member/Chair**

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**Date**