



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/21/1459**

**Re: Property at 35 Firrhill Crescent, Edinburgh, EH13 9EW (“the Property”)**

**Parties:**

**Mr Gregor Brown, Mrs Diane Brown, 16 East Camus Place, Edinburgh, EH10 6QZ (“the Applicant”)**

**Ms Annette Townsley, 35 Firrhill Crescent, Edinburgh, EH13 9EW (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member) and Helen Barclay (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it would make an order in favour of the Applicant for the Sum of TWO THOUSAND EIGHT HUNDRED and TWENTY FIVE POUNDS SEVENTY THREE PENCE (£2,825.73) STERLING.**

Background

1. An application was received under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment together with interest from the date of the decision.
2. The application contained:-
  - a. a copy of the tenancy agreement; and
  - b. a copy of the Respondent’s rent statement.

3. The applicant's representative Ms Donnelly from Messrs T C Young appeared on behalf of the applicant. Mr Gordon from Shelter appeared on behalf of the respondent.
4. A case management discussion had taken place on 12 August 2021. Reference is made to the terms of that Note. The application had been continued until 5 October 2021 in order for payments to be made the rent arrears and so that the applicant could confirm the current sum due.
5. Before the case management discussion on 5 October 2021 the applicant had submitted an updated rent statement.

#### Discussion

6. The applicant's agent advised that the current rent arrears as at 5 October 2021 were £2,825.73. She confirmed that she was seeking an order for payment of that sum together with interest.
7. Mr Gordon for the respondent advised that there was no objection to an order for this sum being granted. The respondent did not dispute the rent arrears due.

#### Findings in Fact

8. The Tribunal found the following facts to be established:
  - a) A tenancy agreement was entered into between the Applicant and the Respondents for the property. It commenced on 11 March 2015.
  - b) The tenancy agreement provided that monthly rent was £850 and was payable on the same date each month.
  - c) Rent arrears up to 5 October 2021 totalled £2,825.73.

#### Reasons for Decision

9. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from assured tenancies. As this is an assured tenancy the tribunal were content that we had jurisdiction to deal with this case.
10. The tenancy agreement created obligations between the parties including, the obligation to pay rent. The respondent had failed to make payment of rent totalling was £2,825.73. The respondent admitted these rent arrears and was not opposed to an order being granted against her.
11. Based on the evidence before the tribunal including :- the application, the updated rent statement, written answers from the respondent and both parties' agents oral submissions, we consider that we should make a payment order of £2,825.73.
12. We note that the applicant also seeks interest on the order. The imposition of interest is a discretionary matter for the tribunal. While we found that there were rent arrears, we do not consider that it would be reasonable to award interest in this case. The respondent is on universal credit, and she has limited finances to repay the rent arrears. It may take her some time to do so. She has been a tenant with the applicants for 14 years. We consider that it would be an additional burden on the respondent at a time of change in her life, when she requires to set up a new home. It was put to her by the applicant's agents that they had offered to "wipe off" the arrears and pay her a deposit if she left the property, if this was correct it would appear to us that the imposition of interest is not of such significance to the applicants compared to the recovery of the property itself. Imposing interest would however be an additional financial burden on the respondent and given her limited means we do not consider that it would be fair or reasonable to impose interest. We are not therefore prepared to award interest.

### Decision

13. We grant an order in favour of the Applicant for the Sum of TWO THOUSAND EIGHT HUNDRED and TWENTY FIVE POUNDS SEVENTY THREE PENCE (£2,825.73) 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.**

**Legal Member: Melanie Barbour**

**Date: 5<sup>th</sup> October 2021**

**Melanie Barbour**