



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

Chamber Ref: FTS/HPC/CV/21/1931

Re: Property at 80-82 Queensberry Street, Dumfries DG1 1BG (“the Property”)

Parties:

**Ivor Hyslop and Fiona Hyslop, residing together at 4 Summerpark, Dumfries,
DG1 2AB (“the Applicants”)**

**Anna Wabik and Michel Petryka residing together at 80 a Queensberry Street,
Dumfries, DG1 1BG (“the Respondents”)**

Tribunal Members:

**Paul Doyle (Legal Member)
Linda Reid (Ordinary Member)**

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment should be made.**

Background

The Applicant sought an order for payment of rental arrears totalling £3735.00. The Applicant had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement and a calculation of arrears of rental. A copy title sheet was lodged with the Tribunal which showed that the applicants are the heritable proprietors of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10.00am on 22 September 2021. The Applicant was represented by Ms H Fleming of G M Thomson & Co, letting agents. The start of the telephone conference was delayed to enable the respondents to participate but there was no appearance by or on behalf of either Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property on 28 June 2019.
2. The period of the Lease was from 1 July 2019. The agreed rent in terms of the Tenancy Agreement was £575 per month.
3. The respondents have served a notice to leave on the applicants, so that the tenancy will end on 30 September 2021.
4. Since 1 May 2021, the Respondents have failed to make prompt and regular payments of the rental due. At the date of application, there were arrears of rental totalling £3,375.00, which is more than three months' rent. Even though the respondent made some payments of rental since the application was raised, at today's date there are arrears of rental totalling £4,080.00.
5. Relying on Rule 13(2)(a) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the Applicants sought leave to amend the sum applied for by increasing the sum sought as arrears of rent to the correct figure of £4,080.00. That application is not opposed. The amendment of the sum sought is not a new matter and is simply a matter of arithmetic. The sum sought for arrears of rent is increased to £4,080.00.
6. The Respondents offer no stateable defence to the application.
7. Notice of the date of this hearing was served on the Respondent by sheriff officers on 25 August 2021.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £4,080.00. Rent was lawfully due in terms of clause 8 of the Tenancy Agreement at the rate of £575.00 per month. Since 1 May 2020 the Respondents have allowed rent arrears to accumulate by failing to make prompt and regular payments of the monthly rental due. At the date of application, the Respondents owed the applicants more than 6 months rental. At today's date, the Respondents owe the applicants £4080.00 in arrears of rental.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for payment.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Paul Doyle

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2 September 2021