



**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/22/0587**

**Re: Property at 18 Luss Brae, Hamilton, ML3 9UP (“the Property”)**

**Parties:**

**Mr Gary Jamieson, Woodlands, Ryelands, Strathaven, Lanarkshire, ML10 6QF (“the Applicant”)**

**Mrs Denise Millar, Mr Graham Millar, 18 Luss Brae, Hamilton, ML3 9UP (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Leslie Forrest (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondents in favour of the Applicant in the sum of £6,646 with interest at the rate of 3% per annum from today until payment.**

**Background**

1. An application dated 1 March 2022 was submitted in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.
2. The Applicant sought payment of £6,646, which represented arrears of rent said to have been incurred by the Respondents.
3. By decision dated 14 March 2022, a Convenor of HPC having delegated powers of the Chamber President, referred the application under Rule 9 of the Rules to a Case Management Discussion.

4. In support of the application, the Applicant produced copy tenancy agreement and copy rent statement.
5. Letters were issued on 11 May 2022 informing parties that a case management discussion had been assigned for 16 June 2022 at 10am, which was to take place by conference call. The parties were advised that they were required to participate in the case management discussion. The Respondents were invited to make written representations. No written representations were received by the Tribunal.

### **The Case Management Discussion**

6. The Applicant was represented by Mr Chisholm. The case management discussion took place by conference call and proceeded in the absence of the Respondents.
7. The Applicant's representative advised that there has been no recent contact with the Respondents. The last payment made by the Respondents was in 26 April 2021, which is reflected in the up to date rent statement. The Applicant's representative moved for an order for payment in the sum of £6,646 with interest at 8% per annum and expenses. There was no contractual term which provided for interest. However, it was submitted that it is reasonable for the Tribunal to award interest, given the substantial sum due and then date of the last payment.

### **Findings in Fact**

8. The Respondents entered into a short assured tenancy in respect of the property which commenced 1 June 2012.
9. The rental charge was £600 per month.
10. The rent arrears due by the Respondents to the Applicant as at March 2022 amount to £6,646.

### **Reasons for Decision**

11. The Respondents failed to submit any written representations and failed to participate in the case management discussion.
12. The Applicant produced a rent statement which was up to date to March 2022 showing that the rent arrears incurred by the Respondents amounted to £6,646. The Tribunal was advised that no payments have been made by the Respondents and there was nothing before the Tribunal which contradicted that.

13. The Applicant sought interest on the sum due at the rate of 8% per annum. In terms of Rule 41A of the 2017 Regulations, the Tribunal awarded interest on the sum due from today's date, but at the rate of 3%, until payment. There was nothing exceptional about this application and the Tribunal was not persuaded to award expenses in the Applicant's favour.

### **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.**

# **N. Irvine**

**Date 16 June 2022**