



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71 Private Housing
(Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

Chamber Ref: FTS/HPC/CV/0677

**Re: Property at 91 Brisbane Street, Livingston, West Lothian, EH54 5EU (“the
Property”)**

Parties:

**Mrs Margaret Smith, Mr Stephen Smith, 55 Gary Walk, Livingston, West Lothian,
EH54 5AS (“the Applicant”)**

**Mr John Telford, Mrs Andrea Telford, 91 Brisbane Street, Livingston, West
Lothian, EH54 5EU (“the Respondent”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Mary Lyden (Ordinary Member)

Decision in absence of the Respondents

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment for the sum of £4655 should be
granted against the Respondents in favour of the Applicants.**

Background

1. The Applicants seek a payment order in terms of section 71 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). A copy tenancy agreement, and rent statement were lodged in support of the application.
2. A copy of the application and supporting documents were served on the Respondents by Sheriff Officer on 17 May 2022. All parties were advised that a Case Management Discussion (“CMD”) would take place on 23 June 2022 at 2pm by telephone case conference and that they were required to participate. Prior to the CMD the Applicant’s representative submitted an updated rent statement and a request to amend the application to reflect the arrears of rent

now owed.

3. The CMD took place at 2pm on 23 June 2022. The Applicant was represented by Ms Wooley, trainee solicitor. The Respondents did not participate and were not represented.

The CMD

4. Ms Wooley told the Tribunal that there has been no recent contact with the Respondents but that they continue to reside at the property. She confirmed that she was asking the Tribunal to allow the application to be amended to reflect the current arrears of £4655. The Tribunal granted the request.
5. Ms Wooley advised the Tribunal that following a letter from the letting agent in November 2021, the Respondents said that they would clear the arrears by the end of January 2022 but did not do so. In October 2020 they had entered a payment arrangement to pay £875 per month to cover the monthly rent of £675, with the remainder going to the arrears. They maintained this arrangement until May 2021. In response to questions from the Tribunal about the cause of the rent arrears, Ms Wooley referred the Tribunal to a communications log submitted with the application. This indicates that the letting agent called Mr Telford on 16 November 2021. He said that he had got behind with his rent payments because of work, that he was a self employed courier and was trying to work out his finances. This is the only explanation for non payment which has been provided. Ms Wooley said that the Respondents are not in receipt of benefits. They have made 2 applications for universal credit which were refused. It is assumed that the rent arrears are connected to the pandemic because the arrears started in March 2020. Ms Wooley told the Tribunal that the Applicants seek a payment order for the sum of £4566 with interest at the rate of 3% per annum.

Findings in Fact

6. The Applicants are the owners and landlords of the property.
7. The Respondents are the tenants of the property in terms of a tenancy agreement dated 16 September 2019.
8. The Respondents are due to pay rent at the rate of £675 per month.
9. The Respondents have been in arrears of rent since 16 March 2020.
10. The Respondents owe the sum of £4655 in unpaid rent to the Applicants.

Reasons for Decision

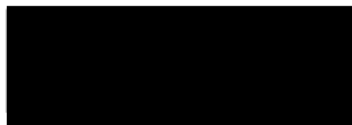
11. The application was submitted with a copy tenancy agreement and rent statement showing arrears of rent of £2630. An updated rent statement was lodged prior to the CMD which establishes that the arrears have increased to £4655. No payments have been made to the rent account since January 2022 and there has been no recent offer of repayment. The Tribunal is satisfied that the Applicants are entitled to a payment order for the sum of £4655.
12. Having considered the request for interest to be applied to the principal sum in terms of Rule 41A of the Tribunal Procedure Rules, the Tribunal determines that interest should not be included in the order for payment.

Decision

13. The Tribunal determines that a payment order should be granted against the Respondents.

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.



Josephine Bonnar, Legal Member

23 June 2022