



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

Chamber Ref: FTS/HPC/CV/22/2982

Re: Property at 181 Prestwick Road, Ayr, Ayrshire, KA8 8NW (“the Property”)

Parties:

**Mrs Alison Wilson, 180 Adamton Road, South Prestwick, Ayrshire, KA9 2AQ
 (“the Applicant”)**

**Ms Heather Saunders McFarlane 40 Ferguson Street, Ayr, KA8 9QH, Mr Stuart
 Kelly, (whose present whereabouts are unknown)(“the Respondents”)**

Tribunal Members:

Richard Mill (Legal Member) and Leslie Forrest (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
 Tribunal”) determined that an order be granted against the Respondents for
 payment to the Applicant of the sum of Four Thousand Nine Hundred and Eighty
 Two Pounds and Fifty Four Pence (£4,982.54)**

Introduction

This application seeks a payment order relating to arrears of rent and is under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the application to both of the respondents took place by Sheriff Officer letterbox delivery on 15 November 2022.

A CMD in this matter took place on 14 December 2022. Though the tribunal was satisfied that lawful service had been effected upon both respondents it was submitted by the representative for the first respondent that the second respondent had removed from the property and was likely unaware of the proceedings. In order to exclude the possibility that the second respondent has not had intimation of either application, despite the Sheriff Officer certification, the tribunal decided to order intimation of the

proceedings to the second respondent by service by advertisement in terms of Rule 6A. A relevant certificate has now been produced.

A number of issues were otherwise raised then on behalf of the first respondent which required the tribunal to continue matters to this fresh CMD. A direction was issued to regulate further procedure.

This further CMD took place on 21 March 2023 at 10am by teleconference. The applicant represented her own interests. The first respondent was represented by Mr Gerard Tierney of Ayr Housing Aid. The first respondent did not join herself due to illness. There was no appearance by or on behalf of the second respondent.

The applicant has withdrawn the linked eviction application today being satisfied that she now has vacant possession of the property.

Findings and Reasons

The property is 181 Prestwick Road, Ayr KA8 8NW. The applicant is Alison Wilson who is the heritable proprietor of the property and the registered landlord. The respondents are Ms Heather Saunders McFarlane and Mr Stuart Kelly who are the tenants.

The parties entered into a private residential tenancy. The respondents fell into significant arrears of rent during the subsistence of the tenancy operating. As at the date of the hearing the rent outstanding is evidenced to be £4,982.84 which is accepted by the first respondent. A rent statement has been produced by the applicant which was found to be a credible and reliable document and weight was attached to that item of unchallenged documentary evidence.

The applicant is entitled to recover arrears of rent due under and in terms of the written lease between the parties. The tribunal therefore granted a Payment Order against the respondents in the sum of £4,982.54. Such an order is necessary as the respondents refuse or unreasonably delay in making payment of such sum. No application for a time to pay direction has been made.

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.

Richard Mill

21 March 2023

Legal Member/Chair

Date