



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

**Chamber Ref: FTS/HPC/CV/23/0314**

**Re: Property at 19 Mossgiel, East Kilbride, South Lanarkshire, G75 9BZ (“the Property”)**

**Parties:**

**Mr Howard Lockhart, 5B Craighbank Crescent, Eaglesham, Glasgow, G76 0DU (“the Applicant”)**

**Mr David Wiseman, Mr Iain Wiseman, 19 Mossgiel, East Kilbride, South Lanarkshire, G75 9BZ; 12 Ashburton Park, East Kilbride, G75 8PX (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal 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 £1,075.**

**Background**

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the First Respondent.
2. By decision dated 17 February 2023, a Convenor of the Housing and Property Chamber, having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 20 February 2023. Letters were issued on 29 March 2023 informing both parties

that a CMD had been assigned for 9 May 2023 at 10am, which was to take place by conference call. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 14 April 2023. The Tribunal did not receive any written representations on behalf of the Respondents.

### **The case management discussion**

4. The CMD took place by conference call. The Applicant was represented by Miss Gail Robertson. The Respondents did not join the conference call and the discussion proceeded in their absence. The Applicant's representative explained that the initial rental charge was £450 per month. The Applicant served a rent increase notice on 1 February 2022 for rent to be increased to £475 per month with effect from 22 May 2022. From December 2022, the First Respondent stopped the housing element of his universal credit claim being paid directly to the Applicant. The First Respondent had incurred rent arrears of £1,250 as at 22 January 2023. Since then, the First Respondent has arranged for the housing element of his universal credit claim to be paid directly to the Applicant again. The arrears of rent have reduced slightly to £1,075 but neither Respondent has made any proposal to pay the rent arrears. The Second Respondent signed the tenancy agreement as guarantor for the First Respondent. The Applicant's representative moved for an order for payment in the sum of £1,075 against both Respondents.

### **Findings in Fact**

5. The Applicant and First Respondent entered into a private residential tenancy which commenced 22 September 2018.
6. The contractual monthly rent was £450 per month, payable in advance.
7. The contractual monthly rent increased to £475 per month with effect from 22 May 2022.
8. The First Respondent incurred rent arrears of £1,075 which sum remains unpaid.
9. The Second Respondent signed the tenancy agreement as guarantor on behalf of the First Respondent.

### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondents failed to participate in the discussion and failed to lodge any written representations. The Applicant's

representative relied upon the rent statement lodged. There was nothing to indicate that the Respondents disputed the accuracy of the rent statement. The Tribunal was satisfied that the First Respondent owes the Applicant £1,075 and that the Second Respondent guaranteed the First Respondent's obligations in terms of the tenancy agreement. Accordingly, an order for payment was granted for £1,075 against both 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.**

# N Irvine

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Legal Member/Chair

**9 May 2023**

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Date