



**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/20/1675**

**Re: Property at 38 Caird Gardens, Hamilton, South Lanarkshire, ML3 0AT (“the Property”)**

**Parties:**

**Mr David Wilson, Mrs Elaine Wilson, 48 Marshall Grove, Hamilton, South Lanarkshire, ML3 8NN (“the Applicant”)**

**Miss Lisa Macfie, Unknown, Unknown (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order be made against the Respondent in the Sum of Four Thousand Four Hundred and Ninety Seven Pounds Sterling (£4,497)**

**Introduction**

This is an application under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Following failed attempts by Sheriff Officers to intimate the application to the respondent, for the purposes of an earlier Case Management Discussion (CMD), service was by advertisement under Rule 6A. It is certified that the advertisement was placed on the Chamber website on 28 October 2020. Lawful service has been effected upon the respondent.

The CMD took place on 8 December 2020 at 10.00 am.

The applicants were represented by Mr David Wilson, the first applicant. He did so with the consent of the second applicant, Mrs Elaine Wilson. The respondent failed to participate in the teleconference hearing.

### Findings and Reasons

The property is 38 Caird Gardens, Hamilton, South Lanarkshire ML3 0AT.

The applicants are Mr David Wilson and Mrs Elaine Wilson, spouses. They are the former landlords. The respondent is Miss Lisa Macfie. She is the former tenant.

The parties entered into a private residential tenancy in respect of the property which commenced on 10 December 2019. The rent was stipulated at a rate of £535 every four weeks. No deposit was paid.

After paying her initial rental payment before moving into the property, the respondent has made only one payment of £400, which was a shortfall on the agreed rental instalment. She was also loaned the sum of £40 by the applicants for the purposes of buying food, at a time when she claimed severe hardship. There are emails produced by the respondent which she acknowledges being in rent arrears.

The written application to the Tribunal sets out the basis of the application which is made. The application refers to rent arrears, together with the additional loan of £40. The written application is dated 6 August 2020 and refers to a wish recover all rent up to the time of the respondent's departure.

The respondent vacated the property on 25 August 2020. The applicants in this application now seek to recover additional sums being £30 to clean the oven and an additional £30 for disposing of items left in the property by the respondent. Such elements did not form part of the original application, but a letter was received from the first applicant on 5 September 2020 detailing the wish to recover these additional costs. Such costs are reasonable. Including those additional sums, the rent arrears up to the date of departure and the additional £40 loan, the total sought is £4,497.

Fair notice of all the sums which the applicants seek has been given and are fully set out in the documents which the respondent has had the opportunity and right to access and consider.

The Tribunal attached weight to the oral evidence of Mr Wilson, together with all the documentary evidence. This was detailed, credible, reliable and consistent.

There are emails from the respondent accepting arrears of rent which are supported by the bank statements produced by the applicants which disclose the initial payments made by the respondent, but no others.

The applicants are entitled to recover arrears of rent lawfully due under the release. They are also entitled to recover additional sums relative to the costs which they have incurred due to the respondent's acts and omissions. The applicants are entitled to

recover the total sum sought of £4,497. This is the total of the initial rental shortfall of £133, eight rent payments of £533 each, the loan of £40 and the two additional £30 claims.

### **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  
**Legal Member/Chair**

**8 December 2020**

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**Date**