



**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/20/0597**

**Re: Property at 20 Kirkpatrick Street, Girvan, KA26 0AD (“the Property”)**

**Parties:**

**Revive Properties Limited, 8 Victoria Drive, Troon, KA10 6EN (“the Applicant”)**

**Mr Timothy Turner, Ms Jade Lyon, UNKNOWN, UNKNOWN, UNKNOWN, UNKNOWN (“the Respondents”)**

**Tribunal Members:**

**Josephine Bonnar (Legal 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 of the sum of £4074.27 should be granted against the Respondents in favour of the Applicant.**

**Background**

1. By application dated 19 February 2020 the Applicant seeks a payment order in relation to unpaid rent and deposit in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 Act (“the 2016 Act”). Documents lodged in support of the application include a copy private residential tenancy agreement and rent statement.
2. The Tribunal attempted to serve a copy of the application and supporting documents on the Respondents. However, the Sheriff Officers were unable to effect service and reported on 8 July 2020 that the property appeared to be unoccupied. A neighbour had advised the Sheriff Officers that the Respondents had vacated the property approximately 2 months before. The neighbour was unable to provide a forwarding address. As the Respondents’ whereabouts are unknown, the Tribunal proceeded to serve the application by advertisement on

the Tribunal website from 23 July to 28 August 2020. All parties were notified that a case management discussion (“CMD”) would take place by telephone case conference on 28 August 2020 at 10am and they were required to participate.

3. On 14 August 2020, the Applicant submitted an updated statement showing a balance outstanding on 14 August of £4074.27.
4. The case called for a CMD on 28 August 2020 at 10am. The Applicant was represented by Dr Revie, a director. The Respondents did not participate.

### **Case Management Discussion**

5. Dr Revie advised the Legal Member that he last heard from the Respondents on 10 July 2020, when Ms Lyon indicated that they had not yet moved all of their belongings from the property. He visited the property shortly afterwards. The curtains were drawn so he could not see what was inside. There was mail piled up at the door. He has had no further contact from the Respondents since that date. In response to questions from the Legal Member Dr Revie confirmed that he sent a copy of the updated rent statement of 14 August 2020 to the respondents by email and post.
6. Dr Revie advised the Legal Member that the total sum currently outstanding is £4074.27. The tenancy started on 4 November 2019. The Respondents were unable to pay the deposit in a lump sum and he agreed to allow it to be paid by instalments. The Respondents paid a total of £670 over the first couple of months of the tenancy, being the first months rent of £420 and £250 toward the deposit of £420. The remainder of the deposit, £170, and the rent due for 14 December 2019 to 14 August 2020 remains outstanding. There is also a sum of £124.27 due for the period 4 to 14 November 2019, as the Respondents had asked to change the payment date from the start date of the tenancy on 4 November 2019 to the 14<sup>th</sup> of the month. The Respondents have made no payments to the outstanding sum and an order for payment is sought..

### **Findings in Fact**

7. The Applicant is the owner and landlord of the property.
8. The Respondents are the tenants of the property in terms of a private residential tenancy agreement.
9. In terms of the tenancy agreement the Respondents are due to pay a deposit of £420 and rent of £420 per month.
10. The Respondents owe the sum of £4074.27 to the Applicant.

## **Reasons for Decision**

11. The Legal Member is satisfied that the Respondents have failed to pay rent and deposit amounting to £4074.27. The Legal Member therefore determines that an order for payment for that sum should be made in favour of the Applicant.

## **Decision**

12. The Legal Member determines that an order for payment of the sum of £4074.27 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

**Josephine Bonnar, Legal Member**

**28 August 2020**