



**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/23/1480**

**Re: Property at 8 Balgonie Road, Markinch, Glenrothes, KY7 6AQ (“the Property”)**

**Parties:**

**Mrs Jean McCluskie, Mrs Rona Evelyn Paterson, Torton Grove, Torton Lane, Torton, Kidderminster, Worcestershire, DY11 7SG (“the Applicants”)**

**Ms Mata Morcillo Valcarcel, Mr Reece Baird, 8 Balgonie Road, Markinch, Glenrothes, KY7 6AQ (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Gerard Darroch (Ordinary 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 Applicants in the sum of £3,425 with interest at the rate of 4% per annum from the date of this decision until payment.**

**Background**

1. The Applicants 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 arrears said to have been incurred by the Respondents.
1. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
2. The Notice of Acceptance was intimated to the Applicant’s representative on 8 June 2023. Letters were issued on 20 June 2023 informing both parties that a

CMD had been assigned for 31 July 2023 at 2pm, 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 11 July 2023. No written representations were received by the Tribunal.

3. On 13 July 2023, the Tribunal received an email from the Applicants' representative, making a request to increase the sum sued for. The request was accompanied by an updated rent statement.

### **The case management discussion**

4. The Applicants were represented by Ms Gillian Matthew. The CMD took place by conference call and proceeded in the absence of the Respondents. This case called alongside a related case which proceeds under chamber reference FTS/HPC/EV/23/1479. The Applicants' representative explained that since the application was submitted, rent arrears have increased to £3,425, as reflected in the updated rent statement. The Tribunal granted the Applicants' request to increase the sum sued for to that sum.

### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 25 March 2022.
6. The contractual monthly rent is £685, payable in advance.
7. The Respondent owes rent arrears of £3,425.

### **Reason for Decision**

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondents failed to submit written representations and failed to participate in the CMD. There was nothing to indicate that the Respondents disputed the accuracy of the rent statement. The Tribunal was satisfied that the Respondent owes rent arrears of £3,425 to the Applicants.
9. The Tribunal noted that the tenancy agreement did not make provision for interest on late payment of rent. The Tribunal exercised its discretion in terms of rule 41A and awarded interest on the sum due at the rate of 4% per annum from today's date until payment.

## **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

31 July 2023

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Date