



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/24/3486**

**Re: Property at 4/6 West Pilton Lea, Edinburgh, EH4 4ES (“the Property”)**

**Parties:**

**Mr Alexander Tucker, Mrs Anna Tucker, 11 Ashlands Ford, Salisbury, Wiltshire, SP4 6DY (“the Applicants”)**

**Ms Margaret Paterson, 4/6 West Pilton Lea, Edinburgh, EH4 4ES (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member) and Elaine Munroe (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £43,547.49 should be granted in favour of the Applicants with interest thereon at the rate of 5 % per annum running from the date of this decision until payment.**

**Background**

1. An application was received from the Applicants’ representative on 31 July 2024 for a payment order brought in terms of rule 70 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicants were seeking an order for payment of £43,547.49 in rent arrears alleged to be owed by the Respondent to the Applicants, together with contractual interest as provided for in the tenancy agreement.
2. Attached to the application form were:

- (i) Copy short assured tenancy agreement between the first Applicant, Alexander Tucker, and the Respondent, which commenced on 1 February 2018.
  - (ii) Rent statement showing the Respondent's outstanding rent arrears to be £43547.49 as at 1 July 2024.
3. The application was accepted on 20 August 2024.
4. Notice of the case management discussion (CMD) scheduled for 26 February 2025, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 28 January 2025. The Respondent was invited to submit written representations by 7 February 2025.
5. No written representations were received from the Respondent prior to the CMD.

#### **The case management discussion**

6. A CMD was held by teleconference call on 26 February 2025 to consider the present application and the accompanying eviction application (FTS/HPC/EV/24/3485). The Applicants were represented on the teleconference call by Ms Kirsty Donnelly of T.C. Young solicitors.
7. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. She did not join the teleconference call, however, and no telephone calls, messages or emails had been received from her.
8. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.

#### **Submissions on behalf of the Applicants**

9. Ms Donnelly asked the Tribunal to grant a payment order in favour of the Applicants against the Respondent for the sum of £43,547.49. As evidenced by the rent statement submitted with the application, this was the sum due in outstanding rent arrears as at 1 July 2024. While the rent arrears owed by the Respondent had increased to £49,672.49 as at the date of the CMD, the Applicants had not sought to amend the application to increase the sum sought.

10. The Applicants were however seeking an order from the Tribunal which would add 5% interest from the date of the order, as requested in the application. Clause 4 of the tenancy agreement provided for interest to be paid by the Respondent in relation to unpaid rent at the rate of 5% per annum above the Bank of Scotland rate. In the application, however, the Applicants' had asked for contractual interest to be added at 5% under the tenancy agreement, in error. Ms Donnelly therefore asked for interest to be added at 5%, rather than the higher rate provided for under the tenancy agreement.

11. Ms Donnelly said that the Applicants had tried to contact the Respondent on a number of occasions regarding a payment plan, but the Respondent has not engaged with them on this and has been difficult to contact.

### **Findings in fact**

12. The Tribunal made the following findings in fact:

- The Applicants own the property jointly between them. The first Applicant was an owner of the property at the time the tenancy agreement commenced. The second Applicant has owned a half share of the property since 2021.
- The first Applicant is the registered landlord for the property
- There is a short assured tenancy in place between the first Applicant and the Respondent, which commenced on 29 September 2010.
- The rent payable under the tenancy has been £875 per month since its commencement.
- The Respondent has been in rent arrears continuously since May 2011.
- As at the date of the application, the Respondent owed the Applicants £43,547.49 in unpaid rent.

### **Reasons for decision**

13. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.

14. No written representations had been received from the Respondent to indicate that she opposed the application. She had not made an application for a time to pay direction.

15. On the basis of all the evidence before it, the Tribunal was satisfied that the Respondent owed £43, 547,49 in rent arrears to the Applicants as at the date of the application.

16. The Tribunal noted that the tenancy agreement provided for contractual interest to be paid at the rate of 5% per annum above the Bank of Scotland rate. Further to Ms Donnelly's submissions, it decided to grant interest from the date of decision at the rate of 5% in terms of rule 41A (2) of the 2017 rules.

## **Decision**

The Tribunal grants an order for payment by the Respondent to the Applicants of the sum of £43,547.49 with interest thereon at the rate of 5 % per annum running from the date of this decision 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.**

# **S. O'Neill**

**Legal Member/Chair**

**Date 26 February 2025**