



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 14 of the Housing Scotland ~  
Act 2014**

**Chamber Ref: FTS/HPC/CV/19/0666**

**Re: Property at 13 York Place, Bellshill, ML4 1RH (“the Property”)**

**Parties:**

**Mr Norman Tenby, Mrs Phillipa Barnett, 37 Ballantrae Crescent, Newton  
Mearns, Glasgow, G77 5TX (“the Applicant”)**

**Ms Catherine Gray, 13 York Place, Bellshill, ML4 1RH (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal 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 of the sum of £5,541.07 be  
granted.**

This was the second case management discussion (CMD) to consider the application made by the Applicants dated 28th February 2019 for an order for payment of rent arrears in terms of Rule 70 of the Tribunal Rules. The Applicants are the owners of the Property and Landlords. They did not attend the hearing in person but their agent Ms Lesley Barclay, who is representing them in these proceedings, did attend and asked that the application be granted.

The Respondent did not attend nor did the Respondent lodge any written representations.

The Applicant had lodged and the Tribunal had sight and considered the following documents:-

1. Copy Tenancy Agreement for the Property dated 4<sup>th</sup> September 2014
2. Copy AT6 Notice dated 6<sup>th</sup> February 2019
3. Notice to Quit dated 6th February 2019
4. Proof of service by recorded delivery dated 6<sup>th</sup> February 2019
5. S11 notice to the North Lanarkshire Council

6. Schedule of rent arrears marked "from new system" commencing from 6<sup>th</sup> June 2017 and ending with the last date rent due on 4<sup>th</sup> May 2019
7. Schedule of rent arrears marked "from old system" dating from commencement of lease on 4<sup>th</sup> September 2014 to 2<sup>nd</sup> June 2017

### **The Hearing**

The Legal Member explained the purpose of the hearing and advised that the Tribunal could do anything at a case management discussion which it may do at a hearing. The Respondent, who is the tenant, did not attend this hearing and had made no written representations prior to the hearing despite notice of the hearing and the above documentation being served on her by Sheriff Officers on 16<sup>th</sup> May 2019. The Tribunal noted the Respondent had not attended nor sent in any written submission at the first CMD.

The Tribunal noted that at the first CMD which was held on 10<sup>th</sup> May 2019 the Legal Member had asked for the information of the rent schedules to be intimated on the respondents as the Applicants were seeking additional rental sums that accrued from the date of the application to the date of the hearing, namely 10<sup>th</sup> May. The total sought at that date was £5,541.07. In the absence of the Respondent the legal member did not think it fair to grant any order without formal intimation of the increase on the Respondent.

Ms Barclay confirmed she was looking for an order for payment today but was also instructed to seek an additional £350 as there had not been any further payments made by the Respondent and an addition monthly rent had become due on 4<sup>th</sup> June. She advised and the Tribunal noted this had been intimated to the Tribunal by e-mail on 5<sup>th</sup> June.

### **Findings in Fact**

1. The Applicant and Respondent have entered into an assured tenancy of the Property for an initial period of 6 months from 4<sup>th</sup> September 2017 to 5<sup>th</sup> March 2018 and thereafter on a month to month basis.
2. The Tenancy is an Assured Tenancy in terms of the Housing (Scotland) Act 1988.
3. The rent is £350 per calendar month.
4. The rent arrears claimed in the original application amounted to £4491.07
5. The rent arrears due at today's date are £5,891.07.
6. The Rent arrears set out in the schedule of rent arrears as submitted at the last CMD and then sent to the Respondent amount to £5,541.07.
7. The Applicants had asked to increase the sum claimed to £5,541.07 at the last hearing and again on 5<sup>th</sup> June by a further increase of £350.
8. The Respondent who is the tenant has not vacated the property to date.
9. The Respondent has been served notice of this application and has made no representations in relation to this Application.

### **Reasons for Decision**

The Tribunal was satisfied from the verbal and written evidence of the Applicant and their agent that arrears of rent have accumulated and according amounted to £5541.07 as at 4<sup>th</sup> May 2019. There was no objection to this claim or explanation submitted by the Respondent and the Tribunal found this to be an accurate statement of the rent lawfully due at that date.

The Applicant had sought, by sending an e-mail on 5<sup>th</sup> June, to further increase the arrears claimed by a further £350. However in terms of the Tribunal' rules (Rule 14A) such a request to amend the application including the sum claimed must be intimated to the other party and the Tribunal at least 14 days prior to the CMD. As this had not happened the Tribunal could not consider amending the application again and at the request of the Applicant's agent granted an order for payment of the sum of £5,541.07 which was the previously amended sum which had been intimated on the Respondent when she was served with the papers.

## DECISION

The Tribunal having considered all the evidence before granted an order for payment of the sum of £5,541.07 in respect of rent arrears owed up until 3<sup>rd</sup> May 2019.

## 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.

Ms Jan Todd

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Legal Member/Chair

12/6/19  
\_\_\_\_\_  
Date