



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/19/3204**

**Re: Property at Eastgate, Alford, AB33 8DH (“the Property”)**

**Parties:**

**Mr Euan Munro and Mrs Dorothy Munro, both residing at 51 Kintail Road, Applecross, Perth, Australia (“the Applicants”)**

**Peterkins, 100 Union Street, Aberdeen, AB10 1QTR (“the Applicant’s Agent”)**

**Mr Henning Wagner, Eastgate, Alford, AB33 8DH (“the Respondent”)**

**Tribunal Members:**

**Ruth O’Hare (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Four thousand six hundred and sixteen pounds and ninety nine pence (£4,616.99) against the Respondent.**

**Background**

- 1 By application dated 9<sup>th</sup> October 2019 the Applicants sought an order for payment against the Respondent in respect of unpaid rent. In support of the application the Applicants’ Agent provided a Statement of Rent Account.
- 2 By Notice of Acceptance of Application dated 22 October 2019 the Legal Member with delegated powers of the Chamber President intimated that there were no grounds to reject the application. A Case Management Discussion was therefore assigned for 11<sup>th</sup> December 2019.
- 3 The application paperwork together with notification of the Case Management Discussion was served on the Respondent by Sheriff Officers on 12<sup>th</sup> November 2019

- 4 On 20 November 2019 the Applicants' Agent emailed the Tribunal to advise that arrears had increased to the sum of £4,400. A copy of the email was intimated to the Respondent.
- 5 On 5<sup>th</sup> December 2019 the Applicant's Agent emailed the Tribunal to advise that an eviction date had been set for 20<sup>th</sup> December 2019 and the arrears as at that date would amount to £4,616.99. An updated Statement of Account accompanied the email. A copy of the emails was intimated to the Respondent.
- 6 No written representations were received from the Respondent following service of the application paperwork.

### **The Case Management Discussion**

- 7 The Case Management Discussion took place at Credo Centre, Aberdeen on 11<sup>th</sup> December 2019. The Applicant was represented by Martin Kingdon and Amanda Anderson. The Respondent was not present. The Legal Member was satisfied that the Respondent had received service of the application paperwork together with notification of the date, time and location of the Case Management Discussion. The Legal Member therefore determined to continue in his absence.
- 8 Mr Kingdon advised that Mr Wagner had not been in touch and had not made any payments since 15<sup>th</sup> July 2019. The property was due to be repossessed on 20<sup>th</sup> December 2019, and the balance of arrears would be £4616.99. A copy of the rent account had been emailed to the Respondent by the Tribunal administration.

### **Findings in Fact and Law**

- 9 The parties entered into a Tenancy Agreement in respect of the Property;
- 10 The rent due under the terms of the Tenancy Agreement was £1,100 per month;
- 11 The tenancy has been terminated by virtue of the granting of an order by the First-tier Tribunal for Scotland (Housing and Property Chamber) under reference FTS/HPC/EV/19/1355. The tenancy is due to terminate on 20<sup>th</sup> December 2019.
- 12 The arrears due by the Respondent as at the termination date of the tenancy amount to £4,616.99;
- 13 The Respondent is liable to pay arrears of rent in the sum of £4,616.99.

- 14 Despite repeated requests the Respondent has refused or delayed in making payment.

### Reasons for Decision

- 15 The Tribunal was satisfied that it was able to continue with the Case Management Discussion in the absence of the Respondent. He had received service of the application by Sheriff Officers. The Tribunal therefore considered it could reasonably assume that he was aware of the Case Management Discussion and had been given the opportunity to attend or make written representations in response to the application.
- 16 The Tribunal was further satisfied that it was able to make a determination of the application at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties.
- 17 Based on the verbal and written representations from the Applicant and the Applicant's Agent, the Tribunal accepted that the Respondent was due to make payment of rent in the sum of £4616.99 in terms of the Tenancy Agreement entered into between the parties. He had failed to do so. He had not put forward any evidence to counter the Applicant's position in this regard. The Tribunal found the Applicant's evidence to be credible as put forward by his agent and therefore accepted his position.
- 18 The Tribunal further accepted that the arrears had increased to £4,616.99 and that it would therefore be appropriate having regard to the terms of the application to increase the sum sought to that figure. The Tribunal considered that the Respondent had been given reasonable notice of same by virtue of the terms of the application paperwork and the updated rent statement circulated in advance of the hearing.
- 19 The Tribunal therefore determined to make an order for payment against the Respondent in the sum of £4,616.99.

### 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.

Ruth O'Hare

Legal Member/Chair

Date

11/12/19