



**Statement of 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/18/3394**

**Re: Re: Property at 156 Torbrex Road, Cumbernauld, G67 2JT (“the Property”)**

**Parties**

**Catherine Hunter, 2a Westmount Park, Newtonards, Co. Down, BT23 4BP (“the Applicant”)**

**Jacqueline and Gavin Swarbrick, 156 Torbrex Road, Cumbernauld, G67 2JT (“the Respondents”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

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

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of TWO THOUSAND THREE HUNDRED AND NINETY FOUR POUNDS (£2394) STERLING. **The order for payment will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

**Background**

1. By application dated 10 December 2018 the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for recovery of possession of the property at 156 Torbrex Road, Cumbernauld, G67 2JT (“the Property”).

2. On 24 December 2018 the Tribunal gave notification of acceptance of the application to the Applicant and the Respondent under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations").
3. On 14 January 2019 the Tribunal enclosed a copy of the application and invited the Respondents to make written representations to the application by 30 January 2019. The Tribunal advised parties on 14 January 2019 that a Case Management Discussion under Rule 17 of the Regulations would proceed on 1 February 2019. This paperwork was served on the Respondents by Ian Wylie, Sheriff Officer, Glasgow on 15 January 2019 and certificates of execution of service were received by the Tribunal administration.
4. The Respondents did not make any written representations by 30 January 2019.

#### **Case Management Discussion.**

5. The Tribunal proceeded with the Case Management Discussion on 1 February 2019. The Applicant was represented by Mr Ritchie from Hardy Macphail, Solicitors. The Respondents did not appear and were not represented.
6. The Tribunal had before it a Private Residential Tenancy Agreement between the Applicant and the Respondents signed and dated 1 April 2018 and a rent statement. The Tribunal noted in terms of Clause 8 of the Tenancy Agreement, the Respondents agreed to pay monthly rent of £495 to the Applicant and that the Respondents had fallen into arrears of rent. The Applicant sought payment for arrears of rent in the sum of £2394. The Applicant had included a rent statement to 1 November 2018 showing arrears in that amount.
7. Mr Ritchie produced an up to date rent statement which showed the arrears were increasing. Current arrears stood at £3384. He moved for an order for arrears in the sum of £2394 in terms of the Application.

#### **Findings In Fact**

1. The Applicant and the Respondents agreed by way of a Private Residential Tenancy Agreement dated 1 April 2018 in relation to the Property at 156 Torbrex Road, Cumbernauld, G67 2JT that the Respondents would pay the Applicant a calendar monthly rent of £495.
2. The Respondents have fallen into arrears of rent.

3. The Respondents last paid rent to the Applicant on 2 October 2018 when a payment to account in the sum of £400.00 was made. The Respondents have made no payments of rent since that date.
4. Arrears of rent were £2394 as of 1 November 2018.
5. Arrears have increased to £3384 as of 1 February 2019

### **Reasons For Decision**

6. Mr Ritchie provided evidence of non-payment of rent in the form of an up to date rent statement. The Tribunal was satisfied on the basis of the rent statement and the supporting oral submissions made on behalf of the Applicant that the Respondents are in arrears of rent of the sum in excess of that sought in the application.

### **Decision.**

7. The Tribunal granted an order for 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 Evans

**Shirley Evans**  
**Legal Member/Chair**

**1 February 2019**  
**Date**