



**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/19/2683

Re: Property at 476 Charleston Drive, Dundee, DD2 4BP (“the Property”)

Parties:

**Mrs Margaret Reid, West Mains of Dunnichen Farmhouse, Forfar, DD8 2NW
 (“the Applicant”)**

**Miss Jay Alexandria Merrilees, Ms Sandra Catherine Thoms, UNKNOWN,
UNKNOWN; 8 Maclaren Gardens, Dundee, DD2 3FB (“the Respondent”)**

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the First Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that:**

Background

**This matter called for a Case Management Discussion at 10 am on 15 January
2020 at Dundee Carers Centre, Seagate House, 132-134 Seagate, Dundee, DD1
2HB. It was an Application for a Payment Order in respect of rent arrears said
to have accrued under a tenancy between the parties which commenced on 24
August 2016. The Applicant was the landlord and the Respondents were the
tenants. The tenancy was in respect of the Property.**

The Case Management Discussion.

**The Applicant was represented by Mr Richard Thomson of Smart Move Letting
Management Ltd. The Second Respondent, Ms Sandra Thoms was personally
present. The First Respondent, Ms Jay Merrilees, was neither present nor**

represented. The Application had been validly served on both Respondents by Advertisement on the website. The Tribunal therefore considered it was fair to proceed with the Case Management Discussion.

Mr Thomson advised that the rent arrears had been reduced by a recent payment and were now at £118.34. The Applicant was seeking a Payment Order for this sum. At the time of the lodging of the Application the rent arrears had been at £1,447.78.

Mrs Thom accepted this amended sum was probably due. She was the First Respondent's grandmother and commented that her granddaughter had caused the rent arrears by failing to properly register for benefits. She understood that she was jointly and severally liable for the rent arrears even though she had left the Property leaving the First Respondent there on her own after falling out with her granddaughter about the rent issues.

Findings in Fact.

The Tribunal made the following findings in fact.

- i. There was a short assured tenancy between the parties in respect of the Property.
- ii. The Respondents were contractually liable to pay the Applicant monthly rent of £650.00 in respect of their tenancy at the Property.
- iii. As at today's date there were rent arrears of £118.34.
- iv. This sum was lawfully due and remained unpaid.
- v. The Respondents were jointly and severally liable for rent lawfully due in respect of the tenancy between the parties.

Decision.

Having made the above findings in fact the Tribunal made a Payment Order against the Respondents in the sum of £118.34.

Ancillary

Mr Thomson asked for an award of expenses in respect of this matter. The Tribunal enquired on what basis any award of expenses could be made. Mr Thomson acknowledged he was unfamiliar with the rules regarding expenses. Mr Thomson then attempted to refer to contractual terms in the tenancy which allowed sums to be added for letters chasing late payment. The Tribunal considered that there was nothing in the conduct of the Respondents in respect of these proceedings that made it appropriate to make any award of expenses in respect of Rule 40 as the Respondents had not acted unreasonably in their conduct of this case. The Application itself made no reference to charges other than for rent arrears and so these sums could not just be "added on".

At the end of the Case Management Discussion, Mr Thomson then raised the matter of interest. He asked for interest to run on the sum awarded in the Payment Order. This was opposed by Ms Thom on the basis that her granddaughter had caused the problems and it would be unfair to find her liable for any interest. The Tribunal noted that both Respondents were jointly and severally liable and decided to award interest on the sum stated in the Payment Order at the rate of 4 per cent per year until payment.

Following on from this Mr Thomson then said that he wanted interest to run on the rent arrears due meaning that the sum claimed in the Payment Order should be recalculated to take account of contractual late payment interest referred to in the tenancy. Mr Thomson was asked what effect this would have on the figures. He said he "*didn't know and would have to go work it out*". Given the Case Management Discussion was largely concluded and now Mr Thomson appeared to want to change the figures to sums he had not yet calculated and also considering that neither the Tribunal nor the Respondents had been given any notice of this in the Application or even at the outset of the Case Management Discussion, the Tribunal declined to entertain this and brought proceedings to a close based on the decision made.

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.

A McLaughlin

Legal Member/Chair

15/1/20

Date