

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

---



**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/18/1969**

**Re: Property at 7 Thornly Park Gardens, Paisley, PA2 7RF (“the Property”)**

**Parties:**

**Mrs Helena McCulloch, 7 Thornly Park Gardens, Paisley, PA2 7RF (“the Applicant”)**

**Mr John William Lindsay & Mrs Jennifer Elizabeth Coyle, 61 Burnbrae Road, Glasgow, G72 0RY (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member)**

**Outcome**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Order for payment should be granted in the sum of £3,591.82.**

**Background**

The Applicant submitted an application seeking an order for payment from the Respondents in the sum of £3,591.82. That sum related to arrears of rent arising from the tenancy agreement between the parties in respect of the property at 7 Thornly Park Gardens, Paisley, together with the costs associated with cleaning and effecting repairs at the property. The Tribunal intimated the application to the Respondents by sheriff officer on 10<sup>th</sup> September 2018 and advised them of the date, time and place of today’s case management discussion. The Respondents were advised that they required to attend today’s case management discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair.

### **The Case Management Discussion**

The Applicant was represented by her son, Robert McCulloch. The case management discussion took place in the absence of the Respondents. The Applicant sought an order for payment in the sum of £3,591.82. That sum was made up of rent arrears amounting to £730.82 and repair costs of £2,861. The Applicant's representative advised that the repairs required were as a result of the fault and negligence of the Respondents. He made reference to the invoice produced which lists the repairs carried out. He advised that he obtained a quotation from Castle Residential to effect the repairs, but advised that their quotation was higher than the cost ultimately incurred. It was submitted that the costs incurred were reasonable in the circumstances.

### **Findings in Fact:**

1. The Applicant and the Respondents entered into a tenancy agreement the term of which was to subsist from 26<sup>th</sup> October 2012 to 27<sup>th</sup> April 2013. Thereafter, the tenancy continued on a two monthly basis.
2. The rent payable was £550 per calendar month, payable in advance.
3. The Respondents left the property in or around the beginning of December 2017.
4. In terms of the tenancy agreement, rent was payable by the Respondents until 10<sup>th</sup> January 2018.
5. The rent arrears due as at 10<sup>th</sup> January 2018 amounted to £730.82.
6. The Applicant incurred costs in respect of repairs and maintenance required following the Respondents' occupation of the property amounting to £2,861.

### **Reason for Decision**

The Tribunal proceeded on the basis of the written documents which were before it and the submissions made by the Applicant's representative. The Applicant's representative invited the Tribunal to make the Order sought for payment in the sum of £3,591.82. The Tribunal was satisfied that the Respondents are contractually bound to pay for the cost of repairs where the need is attributable to their fault or negligence. There was nothing before the Tribunal challenging or disputing any of the evidence before it. The Tribunal was satisfied that the sums sought by the Applicant are due and therefore the Order was granted.

## 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Nicola Irvine

Legal Member/Chair

27<sup>th</sup> September 2018

Date