



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/20/0247**

**Re: Property at 10 Townhead Street, Stonehouse, ML9 3EL (“the Property”)**

**Parties:**

**Mr James Tait, Mrs Winifred Tait, 12 Townhead Street, Stonehouse, ML9 3EL (“the Applicants”)**

**Ms Gina Durham, 8 Patchy Park, Larkhall, ML9 1NL (“the Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal Member)**

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

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

**Background**

This is an application for a payment order dated 24<sup>th</sup> January 2020 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants sought in their application payment of arrears in rental payments and damages of £2,914.16 in relation to the Property from the Respondent, and provided with their application copies of the private residential tenancy agreement, rent arrears statement, copy quote for redecoration, and photographs of the lounge.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 25<sup>th</sup> February 2020, and the Tribunal was provided with the execution of service.

A Case Management Discussion was set for 25<sup>th</sup> March 2020. That Case Management Discussion had to be cancelled as a result of the coronavirus pandemic, and the lockdown imposed in the United Kingdom as a consequence thereof. The Parties were subsequently notified with the details of a Tele-Conference and provided with dial-in details.

### **Case Management Discussion**

A Case Management Discussion was held at 14.00 on 14<sup>th</sup> July 2020 by Tele-Conference. The Applicants did not participate, but were represented by Mr Munro, letting agent. The Respondent did not participate, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Mr Munro with reference to the application and papers to grant an order for payment of the sum of £2,914.16, which is comprised of £2,734.18 of rent arrears, and £180.00 in respect of the cost of repainting the lounge of the Property.

Mr Munro explained that the Respondent indicated shortly prior to leaving the Property that she was not paying her rent due to alleged damp in the Property. He confirmed that the Property had been checked, and that there were no damp problems.

On obtaining possession of the Property, the Applicants noted that the Respondent had commenced repainting a section of wall in the lounge, but had apparently stopped after doing only one area. The Tribunal was provided with photographs showing this. The Applicants required to have the room repainted and paid the amount as per the quotation provided to the Tribunal.

### **Statement of Reasons**

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

#### **“First-tier Tribunal's jurisdiction**

- (1) In relation to civil proceedings arising from a private residential tenancy—
  - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),

- (b) a sheriff does not have competence or jurisdiction.
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
- (a) the prosecution of a criminal offence,
- (b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the rent arrears statement provided, the quotation and photographs, and the submissions made by Miss Munro, and was satisfied that these disclosed an outstanding balance of rent arrears and damages of the sum sought of £2,914.16, which sum remains outstanding.

Accordingly, the Tribunal shall make an order for payment of that sum.

### **Decision**

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicants of the sum of £2,914.16.

### **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.**

**Neil Kinnear**

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**Legal Member/Chair**

**14/07/2020**

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**Date**