



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/22/3439**

**Re: Property at 51B Milnbank Road, Dundee, DD1 5PY (“the Property”)**

**Parties:**

**Mrs Susan Jones, Mrs Shona McLaren, Tomaknock House, Crieff, Perthshire, PH7 3QH; Knox House, Coldwells Road, Crieff, PH7 4BB (“the Applicant”)**

**Mr Nathan Henderson, 51B Milnbank Road, Dundee, DD1 5PY (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Frances Wood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made a Payment Order in favour of the Applicants against the Respondent in the sum of £3,845.00.**

**Background**

The Applicant seeks a Payment Order for rent arrears said to be due by the Respondent to the Applicants under a tenancy agreement between the parties. The Application sought the sum of £2,245.00 and on 11 January 2023 the Applicants sought to amend this sum under Rule 14A to the figure of £3,845.00. The Application was accompanied by a copy of the tenancy agreement and rent statements.

**The Case Management Discussion**

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 20 January 2022. The Application called alongside a conjoined case in respect of an Application for an Eviction Order between the parties.

The Applicants were represented by Ms McNicol, solicitor, of MacNabs LLP. There was no appearance by or on behalf of the Respondent. The Application and information about how to join the conference call had been served on the Respondent by Sheriff Officers on 30 November 2022. Accordingly, the Tribunal decided to proceed in the absence of the Respondent. The Tribunal heard from Ms McNicol and carefully questioned her on the substance of the Application and also on the competence of amending the sum sought given that the Applicants have not given the full 14 days' notice of any such amendment as set out in Rule 14A. Having done so, the Tribunal made the following findings in fact.

### **Findings in fact**

- I. *The parties entered into a tenancy agreement whereby the Applicants let the Property to the Respondent on a Private Residential Tenancy which commenced on 4 November 2019;*
- II. *The contractual monthly rent was £400.00;*
- III. *The Respondent fell into rent arrears;*
- IV. *At the time the Application was submitted, the sum of £2,245.00 was lawfully owed by the Respondent to the Applicants as arrears of rent;*
- V. *The rent arrears have now increased and no payment at all has been received since June 2022. The Respondent has provided no reason at all for his non engagement and non-payment. As at today's date, the Respondent owes the sum of £3,845.00 to the Applicants as rent arrears;*
- VI. *On 11 January 2023, the Applicants sought to amend the sum sought to the up-to-date figure of £3,845.00;*
- VII. *On 16 January 2023, the Tribunal intimated this amendment to the Respondent by Royal Mail;*
- VIII. *The Respondent has failed to engage with the Tribunal and make any representations whatsoever in respect of this Application;*
- IX. *The Tribunal considers it reasonable to use the powers set out in Rule 16 A (a) to vary the time limits in Rule 14A such as to allow the amendment to be competently received as if it had been made timeously;*

## **Decision**

Having made the above findings in fact, the Tribunal decided to grant the Application and made a Payment Order in favour of the Applicant against the Respondent in the amended sum of £3,845.00.

## **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

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Legal Member/Chair

20 January 2023

Date