



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/2223

Re: Property at 4E Newbigging, Musselburgh, EH21 7AH (“the Property”)

Parties:

Mr Frederick Wesley Maxwell, Mrs Heather Maxwell, 38 Annaloughan Road, Augar, Co-Tyrone, BT77 0BW (“the Applicant”)

Mr Scott McKeown, Mrs Billijo McKeown or Hainey, 4E Newbigging, Musselburgh, EH21 7AH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision

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

- **Background**

The Application is in respect of a Payment Order in the sum of £9,755.00 said to be due by the Respondents as unpaid rent arrears.

- **The Case Management Discussion**

The Application called as a Case Management Discussion by way of a conference call that took place at 11:30 am on 6 January 2021. Ms Maxwell was present and confirmed that she was representing the interests of both Applicants. Ms Billijo Hainey or McKeown was present on the call. There

was no appearance by or on behalf of Mr Scott McKeown. Sheriff Officers had served the Application on him together with details of the conference call on 20 November 2020. The Tribunal therefore considered it appropriate to proceed to hear the Application.

Ms Maxwell invited the Tribunal to make a Payment Order in the sum of £9,755.00 in respect of unpaid rent arrears said to be lawfully due in respect of a Private Residential Tenancy between the parties. A spreadsheet was produced with the Application that set out the basis of how this sum had been calculated. The unpaid rent was said to have accrued from January 2019 to November 2020.

Ms Hainey indicated that she was now separated from Mr McKeown. She said she had moved out some time in October 2020. She acknowledged that there were rent arrears and although she herself hadn't worked out the exact sums due, the figures put forward by the Applicant were not unreasonable. There was no argument put forward that a Payment Order should not be made or that the sum claimed was disputed.

The Tribunal asked Ms Hainey about whether she could pay the sum due in instalments. She advised that she had no disposable income and was considering declaring herself bankrupt on account of various debts. No proposals were put forward to pay any sum found due in instalments. The Tribunal noted that both Respondents were jointly and severally liable for the payment of rent in respect of the tenancy between the parties.

- **Findings in Fact**

Having heard from parties and considered the Application, the Tribunal made the following findings in fact.

- I. *There was a Private Residential Tenancy between the parties in respect of the Property which commenced on 7 December 2018.*
- II. *The Applicants were the landlords and the Respondents were the tenants.*
- III. *The monthly rent due to be paid by the Respondents to the Applicants was £725.00*
- IV. *The Respondents were both jointly and severally liable for payment of the rent to the Applicants in terms of Condition 1 of the tenancy.*
- V. *The Respondents fell into rent arrears.*
- VI. *The sum of £9,755.00 was due as rent by the Respondents to the Applicants but remained unpaid.*

VII. *The Respondents had breached the terms of their tenancy by failing to pay the contractual monthly rent due.*

- **Reasons for Decision**

Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order in the sum of £9,755.00. The Tribunal was not asked to make any provision for interest to run on that sum.

On the basis that Mr McKeown's financial situation was unknown and Ms Hainey had no proposals for making repayment, the Tribunal decided not to make any further order other than to grant the Payment Order in the amount sought.

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.

Andrew McLaughlin
Legal Member/Chair

06/01/2021

Date