



**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/18/1654**

**Re: Property at: 25 James Weir Grove, Uddingston G71 7PL (“the property”)**

**Parties:**

**Clyde Valley Property Services, 50 Scott Street, Motherwell ML1 1PN (“the applicant”)**

**Mr William Wilson and Ms Lisa Wallace, formerly 25 James Weir Grove aforesaid and now at 29 East Avenue, Glasgow G71 6LG (“the respondents”)**

**Tribunal Members:**

**David Preston (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that the respondents pay to the applicant the sum of £3388.33 as arrears of rent under the tenancy agreement between the parties.**

**Background**

1. By application dated 29 June 2018 the Applicant applied to the First-tier Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The application was accompanied by: a copy of the tenancy agreement dated 13 January 2016; and Rent Statement dated 21 May 2018 for the period up to 1 May 2018 showing arrears of rent to that date amounting to £1900. Following a Case Management Discussion (CMD) on 9 October 2018, at which the applicant’s agent, Ms Irvine, sought to increase the sum sought by way of arrears to £3388.33. The tribunal was advised that the respondents had vacated the property and no further arrears were accruing. The tribunal determined, in the interests of fairness that the respondents had not been served with papers detailing the additional amount of arrears and that the CMD should be adjourned to allow fair notice to be given.

2. Following the CMD the applicant sent a further rent statement dated 9 October 2019 covering the period to 1 September 2018 showing total arrears of £3388.33. a full set of papers, including the additional rent statement were served on the respondents by Sheriff Officer on 4 January 2019 in terms of Certificate of Service dated 7 January 2019, a copy of which was available to the tribunal. The papers served intimated a CMD to be held on 22 January 2019 at 10.00am within the Glasgow Tribunal Centre.
3. On the afternoon of 21 January 2019, the day before the CMD, the respondents sent a number of emails to the tribunal to seek a postponement of the CMD. They advised that they were suffering medical and financial difficulties. Neither a medical certificate nor any evidence of their financial situation was produced. They indicated that they were willing to enter into a payment plan to cover the arrears of rent.

### **The Case Management Discussion**

4. Ms Rachel Irvine, Solicitor appeared on behalf of the applicant, who did not attend. The respondents did not attend.
5. The tribunal was satisfied that Notice of the CMD together with a full set of case papers had been lawfully served on the respondent on 4 January 2019.
6. Ms Irvine advised that no further rent had been received by the applicant and that respondents had vacated the property. The Rent Statement dated 9 October 2018 indicated that rent arrears totalling £3388.33 had accrued. She further advised that when the respondents vacated the property the applicants had found it to be in a very poor condition and that further expense had been incurred by the applicant in carrying out repairs.
7. Ms Irvine advised that in view of the extent of the repairs required the applicant had incurred an outlay of approximately £4300. A further statement detailing this sum had been sent by her, recorded delivery on 14 January and a copy had been sent to the Tribunal. She asked that the tribunal consider this additional sum in its deliberations.
8. The tribunal was not satisfied that the additional sum sought by way of expenses had been properly intimated in terms of the rules and declined to consider it. It considered that it was not appropriate to amend the current application to include such further sums by way of damages when the application had been in respect of arrears.

### **Findings in Fact**

9. The tenancy between the parties was constituted by Tenancy Agreement dated 13 January 2016.

10. Rent arrears amounting to £1900 had accrued by the date of the application on 29 June 2018 and a further sum, totalling of £3388.33 had accrued since then up to the date of the Case Management Discussion.

#### Reasons for Decision

11. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, to determine the application at the CMD.

12. The tribunal considered carefully the representations made by the respondents in their emails seeking a postponement. The tribunal determined that nothing would be gained by such a delay. There was no provision in the Rules or the legislation which would allow for a payment plan or for what would previously have been available in the Sheriff Court in a case such as this for a Time to Pay Direction.

13. In any event, notice of the CMD together with a full set of papers had been served on the respondents on 4 January 2019 and no effort had been made to respond to the papers or to seek a postponement until the eleventh hour by which time it was too late to reasonably cancel the scheduled CMD and re-arrange. In any event the application had been made by the applicants in July 2018, some six months earlier, and no effort had been made by the respondents to respond to them, nor to attend the CMD on 9 October 2018

14. The tribunal is satisfied that at the date of the CMD arrears of rent totalling £3388.33 remained outstanding.

#### 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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

D.Preston  
D

\_\_\_\_\_  
Legal Member/Chair

\_\_\_\_\_  
Date 22 January 2019.