



**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/19/1828

**Re: Property at Flat 7, 5 Dumbryden Grove, Edinburgh, EH14 2QP (“the
Property”)**

Parties:

**Mr Suning Zhang, 305 Building 4, Jingyutangxiang, Jiangyang Rd, Tangzhou
Jiangsu, China, 225000, China (“the Applicant”)**

**Miss Natasha Kelly, Mr Zeshan Ikram, Flat 7, 5 Dumbryden Grove, Edinburgh,
EH14 2QP; Flat 7, 5 Dumbryden Grove, Edinburgh, EH14 2QP (“the
Respondents”)**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision

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

Background

This is an application for a payment order dated 11th June 2019 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought in his application payment of arrears in rental payments of £9,568.00 in relation to the Property from the Respondents. The Applicant provided with his application copies of the short assured tenancy agreement and rent arrears statement.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 5th July 2019, and the Tribunal was provided with the executions of service.

A Case Management Discussion was set for 6th September July 2019 at George House, George Street, Edinburgh. On 5th September 2019, the Parties' respective representatives contacted the Tribunal and advised by e-mails that they had reached agreement that the Respondents consented to the Tribunal granting an order for payment of the sum of £5,681.00, and requesting that the parties and their representatives be excused attendance at the Case Management Discussion.

The Tribunal was content to proceed on that basis, and considered it appropriate in these circumstances to discharge the Case Management Discussion and to make a decision without a Case Management Discussion in terms of Rule 18 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal decided after considering the written representations of the Parties' respective representatives that having regard to the undisputed facts it is able to make sufficient findings to determine the case, and to do so would not be contrary to the interests of the parties.

Statement of Reasons

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

"16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments."

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondents) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the copy rent arrears statement, and the Parties' respective representatives' written representations, and was satisfied that this disclosed an outstanding balance due by the Respondents to the Applicant of £5,681.00.

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 Respondents to the Applicant of the sum of £5,681.00 of consent.

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

Legal Member/Chair

06/09/19

Date