



**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/19/3944**

**Re: Property at 63 Anderson Drive, Irvine, KA12 9HY (“the Property”)**

**Parties:**

**Mr Donald Watson, 14 Glenbervie Wynd, Irvine, KA11 4DL (“the Applicant”)**

**Ms Lesley Ann Strain, 63 Anderson Drive, Irvine, KA12 9HY (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £4188.36 should be made.**

- Background
- This was a case management discussion to consider the application made by the Applicant dated 10<sup>th</sup> December 2019 for an order for payment of rent arrears and damage to the Property in terms of Rule 70 of the Tribunal Rules.
- The Applicant is a joint owner of the Property and Landlord. The Applicant attended the CMD along with the joint owner Mrs Karen Watson who was present as a supporter.
- Mrs Karen Watson had indicated her consent as joint owner to the letting of the Property to the Respondent.
- The Respondent did not attend nor did the Respondent lodge any written representations.
- The Applicant had lodged and the Tribunal had sight and considered the following documents:-

- - Copy Tenancy Agreement for the Property dated 7<sup>th</sup> April 2015
  - Schedule of rent payments and rent due from 1<sup>st</sup> January 2019 to 1<sup>st</sup> December 2019
  - Benefit decision notice from North Ayrshire Council dated 6<sup>th</sup> June 2019
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## The Hearing

- The Legal Member explained the purpose of the hearing and advised that the Tribunal could do anything at a case management discussion which it may do at a hearing.
- The Respondent, who is the tenant, did not attend the hearing and had made no written representations prior to the hearing despite notice of the hearing and the above documentation being served on her by Sheriff Officers on 6<sup>th</sup> January 2020.
- The Applicant advised that he believed the Respondent was still in the Property and he confirmed that she has paid no rent since 1<sup>st</sup> June 2019. He further explained that prior to that time rent had been paid from housing benefit with the Respondent paying a top up herself. He had lodged a letter from housing benefit showing that this would stop on 16<sup>th</sup> June 2019. He believes the respondent had been going to apply for universal credit but from a phone call he made to the Universal Credit office he is not sure she has applied for it.
- The Applicant originally applied for an order for £3273.08 being rent arrears of £3,173.08 and £100 for damage to a door. By e-mail dated 6<sup>th</sup> January he lodged a new rent statement asking for further arrears to be taken into account the new total being £4188.36 taking account of January's payment which had not been paid and including the two days due prior to the hearing of the CMD set down for 3<sup>rd</sup> February 2020.
- After responding to a direction by the Tribunal for clarification of the sums due for damage to the door, the Applicant confirmed he is withdrawing that part of his claim as the door has not yet been replaced.
- The Applicant confirmed there has been no payment of rent since June 2019 and that today 3<sup>rd</sup> February the arrears currently stand at £4188.36.
- The Applicant is seeking an order for payment of this sum.

## Findings in Fact

- The Applicant and Respondent have entered into a short assured tenancy of the Property for a period of 6 months from 7<sup>th</sup> April 2015 which continued on a month to month basis after the initial 6 months.
- The Tenancy is a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988.
- The rent is £ 550 per calendar month.

- The rent outstanding as at 2<sup>nd</sup> February 2020 is £ 4,188.36.
- The Respondent who is the tenant has not vacated the property.
- The Respondent has not paid any rent towards the arrears or current rent due since 1<sup>st</sup> June 2019 when payment of housing benefit ceased.
- The Respondent has been served notice of this application and has made no representations in relation to this Application.

### **Reasons for Decision**

- The Applicant has entered into a Short Assured Tenancy with the Respondent in terms of which the Respondent undertook to pay rent at the sum of £550 per calendar month from 7<sup>th</sup> April 2015.
- Rent is due on 1<sup>st</sup> of each month.
- The Applicant gave notice of his intention to claim additional sums by his e-mail of 6<sup>th</sup> January and to remove the claim for damage to the door of the Property and therefore the application has been timeously amended.
- The Respondent is still resident in the Property.
- Rent is still accruing and the arrears as per the statement submitted by the Applicant are £4,188.36 as of 2<sup>nd</sup> February 2020.
- The Respondent was in receipt of housing benefit but this ceased in June 2019 and the Respondent has failed to pay any sums since then either through other benefits or personally.
- The rent is due and owing and therefore an order for payment is appropriate.
- Decision

**The Tribunal grants an order for payment in the sum of £4,188.36**

### **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.**

Jan Todd

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Legal Member/Chair

3/2/2020  
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Date