



**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/18/0436**

**Re: Property at 17 Drumline Road, Forres, IV36 1HX (“the Property”)**

**Parties:**

**Mr Robert Patience, 5 Main Street, New Elgin, Elgin, IV30 6BQ (“the Applicant”)**

**Ms Michelle Owens, 17 Drumline Road, Forres, IV36 1HX (“the Respondent”)**

**Tribunal Members:**

**Helen Forbes (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 should be granted.**

**Background**

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment in the sum of £4150 with interest thereon at 8% in terms of s16 of the Housing (Scotland) Act 2014.
2. The Tribunal had before it the following documents:
  - (i) Application dated 14<sup>th</sup> and received by the Tribunal on 16<sup>th</sup> February 2018.
  - (ii) Tenancy agreement between the parties dated 1<sup>st</sup> and 3<sup>rd</sup> August 2012.
  - (iii) Form 32 dated 3<sup>rd</sup> August 2012
  - (iv) Notice to Quit dated 1<sup>st</sup> November 2017
  - (v) Certificate of Intimation of Notice to Quit served on 3<sup>rd</sup> November 2017 by Sheriff Officers.

- (vi) Copy rent account for period from February 2017 to January 2018.
- (vii) Certification of Intimation from Sheriff Officers of service of the Application and associated documents dated 25<sup>th</sup> April 2018

### **Case Management Discussion**

1. The Tribunal held a case management discussion on 6<sup>th</sup> June 2018. The Applicant was present. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The rent for the Property is £500 per month. The Applicant said the arrears began to accumulate in February 2017 and no rent was paid for three months. The Respondent had been in receipt of Housing Benefit which was originally paid to the Respondent, and latterly to the Applicant. There is no Housing Benefit in payment to the Applicant at present. In May 2017, the Respondent told the Applicant she would begin to clear the arrears and she paid £600 that month. Rental payments were then intermittent and the last rental payment received was £250 in October 2017. The balance of the rent account was £4150 at the time of lodging the Application. No payments of rent had been made since the Application was lodged. The Applicant thought that the rental account balance was now £6150. The Applicant moved to amend the Application, seeking the sum of £6150 with interest at 8%.

### **Findings in Fact**

2. The lease between the parties is a Short Assured Tenancy with provision for the lease to continue on a month to month basis at the end of the initial 6 month period. In terms of the lease, the rent due per month is £500. The Respondent has failed to make payment of the rent due in terms of the lease. The Applicant is entitled to recover the unpaid rent as set out in the Application.

### **Reasons for Decision**

3. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has not lodged an updated statement of rent account, nor did he state in his Application that rent due after the date of lodging the Application would be sought. In the absence of notice to the Respondent of the amendment sought to the Application, the Tribunal did not grant the Applicant's motion to increase the sum sought. The Applicant is likely to make a further application in relation to recovery of possession at which time he can make a further application for outstanding rent, and lodge evidence with the Tribunal of sums due.

## **Decision**

The Tribunal granted an order for payment in the sum of £4150 with interest thereon at the rate of 8% from the date of service of the Application upon the Respondent.

## **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.**

H Forbes

**Legal Member/Chair**

**Date 6<sup>th</sup> June 2018**