

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/18/0615**

**Re: Property at 5 Helmsdale Drive, DUNDEE, DD3 0NJ ("the Property")**

**Parties:**

**Mr Stuart Hunt, Mrs Yvette Hunt, 20 Lansdowne Place, DUNDEE, DD2 3HT ("the Applicants")**

**Miss Grace Hocking, Mr Jonathon Adams, 5 Helmsdale Drive, DUNDEE, DD3 0NJ ("the Respondents")**

**Tribunal Members:**

**Petra Hennig McFatridge (Legal Member) and Linda Reid (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order is granted.**

1. The Hearing took place at Dundee on 24 August 2018. Present were the Applicants Yvette and Stuart Hunt. The Respondents were not present. The tribunal was satisfied that the Respondents had received notification of the hearing as their legal representatives Dundee North Law Centre had been in contact prior to the hearing and had advised that their instructions were not to attend as the Respondents had nothing further to say. At the Case Management Discussion on 25 June 2018 Dundee North Law Centre had submitted a letter setting out the issues they wished to raise and had also confirmed that they were acting for both Respondents.
2. The application for an order for repossession in terms of Rule 70 had been made on 6 March 2018.
3. The supporting documents lodged by the Applicants at the date of the hearing consisted of a copy of the tenancy agreement starting 31 May 2014, which listed the Applicants as Landlords, copy form AT6 dated 30 November 2017 and copy Notice to quit dated 30 November 2017 with recorded delivery slip, copy S 11 Notice dated 30 November 2018, copy form AT5 dated 26 May 2014, printout of

Tenant payment record, missed/overpayments table, text exchange between landlord and tenant dated 8 February 2018 to 21 May 2018, Repairing Standards Order Discharge and Certificate of Completion dated 23 February 2017 for case number PRPH/RP/16/0180 and email dated 11 July 2018 to the Tribunal submitting the Repairs Case documentation and updating the arrears.

4. The documents submitted on behalf of the Respondents consist of the letter from Dundee North Law Centre of 25 June 2018, their emails 5 July 2018, of 23 August 2018 confirming their clients had instructed them not to attend and had moved out.
5. On 25 June 2018 a Case Management Discussion had taken place where the rent arrears figure was updated to £5,757.00 and various matters were discussed. A Note had been prepared and is referred to for its terms and held to be incorporated herein.
6. At the hearing the applicants confirmed that the application for payment of rent arrears relies on the rent due under the Tenancy Agreement.
7. The Applicants gave evidence that no rental payments had been received since a payment of £500 in April 2018 and that in addition to that there were significant further historic rent arrears. They also gave evidence that they had tried to support the Respondents in sorting out payments under Universal Credit as per the text exchange but that the Respondents would not release the necessary information to them to set up direct payments of Universal Credit for rent to the landlords and had not passed on any payments since the one payment in April.
8. A Repairing Standards case had been raised under Reference PRPH/RP/16/0180 and finally determined on 23 February 2017 with no order for abatement of rent.
9. Prior to this there had been substantial rent arrears building up as per the printout and although some payments had been made after the conclusion of the Repairs Case, the Respondents had persistently failed to pay the full rent due and had in fact now accrued rent arrears of over £6,000.00..

#### **Findings in Fact:**

1. The property is let on a Short Assured Tenancy, which commenced on 31 May 2014.
2. The agreed rent is £550 to be paid in advance with the due date on the first day of the month.
3. The rent arrears relevant to the application as the date of the Case Management Discussion were £5,757.00 as per the table of arrears produced and an amendment of the sum sought in the application to that amount had been granted at the Case Management Discussion.
4. The Repairing Standards Enforcement Order for case PRPH/RP/16/0180 had been discharged on 23 February 2017 without an order for abatement of rent having been made at any stage.

#### **Reasons for Decision:**

The tribunal considered the case on the basis of the evidence and the issues raised by the Respondent's legal representative at the Case Management Discussion. The tribunal is satisfied that the rent of £550 per month is due under the Tenancy

Agreement and that there is no reason as to why these payments should not be made. The Respondents had stated that the outcome of the Repairing Standards Case is still outstanding. This is clearly not correct. They also stated at the Case Management Discussion through their solicitor that the Repairing Standards Case should not have ended the application. However, no appeal has been lodged against the decision. The Respondent's solicitor raised in his letter of 25 June 2018 the issue of abatement of rent. However, the abatement of rent would be a matter to be decided in terms of the Repairing Standard's case. The Certificate of Completion of Works for case PRPH/RP/16/0180 clearly shows that the Tribunal was satisfied that all necessary works had been carried out. If the Respondents were not content with the outcome they had the option of lodging an appeal against the decision. As the decision was not appealed the findings stand and the matter has been finally determined. Abatement of rent for repairing issues is thus not a matter that can be considered by this panel as a final determination of this issue has already been made through the appropriate process. Therefore the full amount of rent was due by the Respondents over the course of the tenancy and they have accrued rent arrears through non payment over a considerable period of the rental period as per the printout of charges and payments made.

As the Respondents were not present at the hearing and there was some doubt as to whether or not they had in fact left the property, the Tribunal considered that in any event the Respondents had had fair notice of the outstanding amount of £5,757 as amended at the Case Management Discussion. The Tribunal was satisfied that this amount was still outstanding and that there was no viable defence to the payment of the amount as the Repairing Standard Case had been finally determined without an order for abatement of rent.

### **Decision of the Tribunal:**

The Tribunal grants an order for payment of the Respondents jointly and severally to the Applicants for the amount of £5,757.00.

### **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.**

Petra Hennig-McFatrige

**Legal member/Chair**

24. 8. 18  
**Date**