

**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/18/0361**

**Re: Property at Flat 312F, Queen Street, Broughty Ferry, Dundee, DD5 2HQ ("the Property")**

**Parties:**

**Mr Kyle Moir, c/o MacRoberts LLP, Capella, 60 York Street, Glasgow, G2 8JX ("the Applicant")**

**Mr Sergio Melo Baretto, GOA Indian Restaurant, 7 Erskine Lane, Broughty Ferry, Dundee, DD5 1DG ("the Respondent")**

**Tribunal Members:**

**Andrew Upton (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent be ordered to make payment to the Applicant in the sum of FOUR THOUSAND TWO HUNDRED AND FIFTY POUNDS (£4,250) STERLING.**

**STATEMENT OF REASONS**

- 1. This case called before me on 27 April 2018 at 14:00 for a Case Management Discussion. Initially there was no appearance by either party. Having had the benefit of seeing the Sheriff Officer's Certificate of Intimation dated 6 April 2018, I was satisfied that the CMD had been properly intimated to the Respondent. However, whilst I had a copy of a letter apparently sent by ordinary post to Messrs. MacRoberts dated 5 April 2018, I was unable to ascertain whether intimation had been received by the Applicant's representative.**

2. I contacted the Applicant's representative, Mr Horn, solicitor, by telephone and was informed that the letter of intimation had not been received.
3. When dealing with an application, I am required by Rule 2 of the Housing and Property Chamber Rules to have regard to the overriding objective. In doing so, I must act justly and with flexibility, with a view to determining the application expeditiously.
4. I am able, in terms of Rule 17(1), to hold a CMD by conference call. Having been invited to do so in this instance as opposed to continuing the CMD to another date, and in the circumstances where the Respondent had received notification of the CMD by Sheriff Officer service but chosen not to attend, I granted that request. The CMD continued by conference call with the Applicant's representative, and in the absence of the Respondent.
5. This action seeks payment of rent arrears. The Applicant claimed that rent arrears in the sum of £4,250 was outstanding and due. A spreadsheet was lodged detailing how that sum had been calculated. A copy of the Tenancy Agreement was also produced, detailing the monthly rent figure. The Respondent had received all of this, but chosen not to contest the action.
6. On the Applicant's motion, in absence of the Respondent, I granted a payment order in favour of the Applicant in the sum of £4,250.

#### 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.

Andrew Upton

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Legal Member/Chair

27 APRIL 2018  
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Date