

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 and Rule 70 of the of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/CV/21/1649

Re: Property at 116A Murray Street, Montrose, DD10 8JG (“the Property”)

Parties:

MacPherson Property Company Ltd, Whitebarns, 92A Monifieth Road, Broughtyferry (“the Applicant”)

Ennova Law, 26 George Square, Edinburgh, EH8 9LD (“the Applicant’s Representative”)

Mr Colin Wallace, Ms Shannon Graham, 16 Inch Terrace, Ferryden, Montrose, DD10 9NU (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent pay the sum of One Thousand Four Hundred and Ninety Pounds (£1,490) to the Applicant.

Background

- 1. This is an application seeking a payment order. It is dated 18th October 2021. The Application states that the Applicant is seeking payment in respect of arrears of rent amounting to £1,490.**

Case management Discussion

- 2. A case management discussion was held by audio conference on 11th January 2022 at 2 pm. Mr John MacAulay of the Applicant's Representatives was present.**

Preliminary Matters

- 3. The purpose of a case management discussion was explained.**
- 4. There was no appearance by the Respondent despite commencement of the case management discussion being delayed until 2.10 pm.**
- 5. The tribunal noted that it had a Certificate of Service from Sheriff Officers confirming that the papers concerning the case management discussion including its date and time had been served on the Respondent on 1st December 2021.**
- 6. Mr MacAulay indicated that he saw no reason for the need for a Hearing to be fixed to determine the application.**

Findings in Fact

- 7.1 The Parties entered into a short assured tenancy agreement in respect of the Property on 3rd August 2015.**
- 7.2 The Respondent was contractually bound to pay monthly rent for the Property at a rate of £500 per month.**
- 7.3 As at 3rd October 2018, the arrears of rent amounted to £1,490.**
- 7.4 The tenancy came to an end on 3rd October 2018.**

Reasons for Decision

- 8. The tribunal had before it the application, the short assured tenancy agreement, rent statement showing the sum of arrears to be £1,490 and Certificate of Citation.**
- 9. The tribunal considered that it had sufficient information to determine the application without a Hearing. It noted that the Respondent had not made representations or appeared at the case management discussion despite having its date intimated to him.**
- 10. Mr MacAulay asked the tribunal to accept the terms of the rent statement showing arrears of £1,490.**

- 11. Mr MacAulay asked the tribunal to accept that there was no element of the debt having prescribed despite the rent statement showing that rent arrears have existed since October 2015. He said that rental payments were made intermittently until October 2018 and that the account was a rolling account with any payments made being applied to the oldest debt first.**
- 12. Mr MacAulay said that the Respondent had not given any valid reason for non payment of rent.**
- 13. Mr MacAulay asked the tribunal to make an order for interest to be paid from the date of its decision. He said that attempts had been made to get the debt paid but that these had been fruitless. He said that, immediately on termination of the tenancy, the Applicant and Respondent had entered into a private residential tenancy agreement in respect of another property.**
- 14. Mr MacAulay accepted that the matter of an award in respect of interest was discretionary and he said that, should the tribunal not be inclined to make an order for interest, his client would prefer the matter being dealt with at the case management discussion rather than the application's determination being deferred to a Hearing where further consideration of interest could be made.**
- 15. The tribunal determined that, on the basis of the rent statement, it was appropriate to find that there are arrears of rent amounting to £1,490. It accepted that the respondent had been given adequate notice of the sum being claimed. The tribunal noted that the short assured tenancy agreement showed that the Respondent and another were tenants. It accepted that the Respondent had joint and several liability for the rent arrears. The tribunal accepted that no element of the debt had prescribed.**
- 16. The tribunal did not consider it appropriate for an order in respect of interest to be made. The debt was of some age and the Applicant, notwithstanding the arrears of rent, had entered into another tenancy agreement with 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.



**Martin J. McAllister
Legal Member of the First-tier Tribunal
11th January 2022**