



**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 (“the 2014 Act”) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)**

**Chamber Ref: FTS/HPC/CV/19/3529**

**Re: Property at Basement Flat, 477 Shields Road, Glasgow, G41 1NP (“the Property”)**

**Parties:**

**Southside Factoring and Related Services Limited, incorporated under the Companies Acts (Company number SC286509) and having their registered office at 135 Fifty Pitches Road, Glasgow, G51 4EB (“the Applicant”)**

**TC Young, Solicitors, 7 West George Street, Glasgow, G2 1BA (“the Applicant’s Representative”)**

**Mr Alan Cree and Mr Philip Stewart Cree, Basement Flat, 477 Shields Road, Glasgow, G41 1NP (“the Respondents”)**

**Brown & Co Legal LLP, Solicitors, Legal Services Agency Limited, 3<sup>rd</sup> Floor, Fleming House, 134 Renfrew Street, Glasgow, G3 6ST (“the Respondents’ Representative”)**

**Tribunal Members:**

**Ms. Susanne L. M. Tanner Q.C. (Legal Member)  
Mr. Leslie Forrest (Ordinary Member)**

## **Decision (made without a hearing in terms of Rule 18 of the 2017 Rules)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents should pay the Applicant the sum of FOUR THOUSAND POUNDS (£4000.00) STERLING; and made an Order for Payment in respect of the said sum**

### **STATEMENT OF REASONS**

#### **1. Procedural background**

- 1.1. On 1 November 2019, the Applicant’s Representative, made an application to the tribunal in terms of Section 16 of the Housing (Scotland) Act 2014 (“the 2014 Act”) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”).
- 1.2. The Applicants were seeking rent arrears from the Respondents for the tenancy of the Property in the sum of £5559.48, together with any further sums due from the date of the Application to the date upon which any order is made.
- 1.3. The Applicants’ Representative lodged:
  - 1.3.1. a copy of the lease between Southside Housing Association and the Applicant dated 24 February 2016;
  - 1.3.2. A copy of the Short Assured Tenancy Agreement between the Applicant and the Respondents dated 8 February 2017;
  - 1.3.3. A rent statement dated 21 October 2019.
- 1.4. On 15 November 2019, the Application was accepted for determination and a Case Management Discussion (“CMD”) was thereafter fixed for 13 January 2020 at 1400 in Glasgow Tribunals Centre. Parties were notified that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. Parties were notified that if they do not attend the CMD, this will not stop a decision or order being made by the tribunal if the tribunal considers that there is sufficient information before it and the procedure has been fair. The Respondents were invited to submit written representations to the tribunal by 27 December 2019. Both Respondents were served with the notification and application paperwork by Sheriff Officers.

- 1.5. On 11 December 2019, the Applicant's Representative submitted a request to amend the application in relation to the sum claimed from £5559.48 to £6435.92, in terms of Rule 14A of the 2017 Rules.
- 1.6. The Applicant's Representative and the Respondents attended the CMD on 13 January 2020. Reference is made to the Notes of the Case Management Discussion which were prepared by the Legal Member on the same date and sent to parties. A hearing was fixed for 24 February 2020 at 1400h in Glasgow Tribunals Centre for this application and the related eviction application EV/19/3528 and both parties were directed to lodge written submissions and other matters, as outlined in the Note.
- 1.7. On 3 February 2020, the Applicant's Representative lodged submissions on behalf of the Applicant. A copy was sent to the Respondents.
- 1.8. On 13 February 2020, the Applicant's Representative lodged an Inventory of Productions and List of Witnesses on behalf of the Applicant.
- 1.9. On 13 February 2020, the Second Respondent submitted written submissions by email.
- 1.10. On 14 February 2020, the Respondents hand delivered documentation to the tribunal's offices, in respect of this and the related eviction application.
- 1.11. On 17 February 2020, the Respondents submitted two witness statements and a bundle of photographs of the Property, in relation to this and the related eviction application.
- 1.12. On 18 February 2020, the Second Respondent sent an email asking for emails of 13 and 17 February and attachments to be added to the documentation already submitted in respect of both applications.
- 1.13. The written representations and documentation submitted by the Respondents was sent to the Applicant's Representative on 18 February 2020.
- 1.14. On 24 February 2020, a hearing took place at Glasgow Tribunals Centre. An adjournment was sought to a future date to enable the Applicant's representative to consider the documents lodged late by the Respondents and to allow parties to engage in settlement discussions. The tribunal decided to exercise its discretion to adjourn the hearing. Reference is made to the Notes on the Hearing which were produced and sent to parties following the hearing. The Hearing was adjourned to 22 April 2020 at 1000h and both parties were notified of the date, time and place of the adjourned hearing.

- 1.15. The hearing on 22 April 2020 was adjourned as a result of the Covid-19 pandemic and the parties were notified that a hearing would be fixed in due course.
  - 1.16. A hearing teleconference was thereafter fixed for 14 August 2020 at 1000h.
  - 1.17. A postponement request was submitted by the Applicant's Representative, in terms of rule 28 of the 2017 Rules due to witness availability and to allow further time to seek a proposed resolution with the Respondents.
  - 1.18. The tribunal acceded to the Applicant's Representative's postponement request and the hearing teleconference was postponed to 15 September 2020 at 1000h.
  - 1.19. The Respondents appointed Representatives and submitted a mandate dated 10 March 2020 authorising them to act on their behalf in relation to the Application.
  - 1.20. On 2 September 2020, the Applicant's Representative advised that parties had reached a settlement whereby the Respondents would consent to the granting of a payment order in the sum of £4,000. Accordingly she was instructed to seek a discharge of the hearing and for a payment order to be granted without the requirement for either party to attend a hearing. The Respondents' Representative confirmed that the position was agreed and conjoined in the application.
  - 1.21. The tribunal considered in terms of Rule 18 that having regard to such facts as are not disputes by the parties, it is able to make sufficient findings to determine the case and that to do so will not be contrary to the interests of the parties; and would make a decision without a hearing. The hearing on 15 September 2020 was discharged and the tribunal proceeded to make a decision on the Application. In terms of Rule 26, the decision of the tribunal must be recorded in a document signed by the chairing member.
2. The tribunal makes the following findings-in-fact:
    - 2.1. There was a short assured tenancy between the parties for the initial period 8 February 2017 to 8 August 2017.
    - 2.2. Thereafter the tenancy continued on a two monthly basis by tacit relocation under 8 October 2019.

2.3. The Respondents did not remove from the Property so the Applicant's Representative applied to the tribunal for an order for possession in terms of Section 33 of the Housing (Scotland) Act 1988 and Rule 66 of the 2017 Rules.

2.4. On 24 February 2020, after a hearing, an order for possession was granted by the tribunal.

2.5. As at the end of tenancy, the agreed rent arrears were £4000.00.

### **3. Decision**

3.1. The tribunal determined on the basis of the Application (including supporting documents) without a hearing in terms of Rule 18 of the 2017 Rules; that the Applicant had proved that the Respondents owe the Applicant the amended sum of £4000.00 sought on behalf of the Applicant and made an order for payment by the Respondents to the Applicant for the said sum.

### **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.**

Susanne Tanner

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**Ms. Susanne L. M. Tanner Q.C.  
Legal Member/Chair**

**15 September 2020**