



**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/18/0467**

**Re: Property at Flat D/L 45 Glebe Road, Kilmarnock, KA1 3DJ (“the Property”)**

**Parties:**

**Miss Samantha Burnish, Lynwood Riverdale, Hexham, NE47 7DX (“the Applicant”)**

**Ms Gerardine McQuade, 49D McLelland Drive, Kilmarnock, KA1 1SG (“the Respondent”)**

**Tribunal Members:**

**Colin Dunipace (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- This was an application by Miss Samantha Burnish (the Applicant) against Ms Geraldine McQuade (the Respondent) in terms of section 16 of the Housing (Scotland) Act 2014.
- The matter called before me as a Case Management Discussion in Kilmarnock on 2 May 2018. At that time the Applicant was represented by Ms Nicola Caldwell. Having made due enquiry it was ascertained that the Respondent was not present. At that stage I considered the question of service of the application upon the Respondent. In this regard I noted that the details of the application had been sent to the Respondent by post on 6 April 2018, advising the Respondent of the date for the Case Management Discussion, and inviting her to make written representations. I noted also that the appropriate documentation had also been lawfully served upon the Respondent by Sheriff Officers on 10 April 2018. Having regard to the foregoing I was satisfied that the Respondent had been provided with

adequate notice of the Case Management Discussion, and determined that the Discussion could properly proceed in the absence of the Respondent.

- Having heard submissions from the Applicant's representative I found that the parties had entered into a lease in relation to the premises at Flat D/L 45 Glebe Road, Kilmarnock, KA1 3DJ. In the terms of this lease the Respondent undertook to pay rent to the Applicant at the rate of £350 per month. Having heard evidence I found that the Respondent had fallen into arrears with payment of rent and that no payments of rent had been made for the period from 30 May 2017 until 30 September 2017, being a period of four months. I found also that the Respondent had left the property and had returned the keys for the premises on 15 September 2017. I found also that whilst there had been some brief contact from the Respondent that no proposals had been made to make payment of the arrears of rent. I also found that the Applicant's representatives had written to the Respondent on 2 February 2018 seeking that payment of the arrears be made within seven days, and that no response had been received to this request.
- Having considered the foregoing I have decided to determine this application without a hearing in terms of Rule 18 (1) (a) (i) and to grant the order sought by the Applicant in terms of section 16 of the Housing (Scotland) Act 2016 in the sum of £1400 . In doing so I have taken cognisance of the factual position as stated by the Applicant, and also the fact that there has been no engagement by the Respondent in this process.
- The application of the Applicant is accordingly granted in the sum sought of £1400

### **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.**

**C Dunipace**

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**Legal Member/Chair**

2 May 2018  
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**Date**