



**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/21/2044**

**Re: Property at 5 Boyd Street, Prestwick, KA9 1JZ (“the Property”)**

**Parties:**

**Mr David MacAllister, 5 Boyd Street, Prestwick, KA9 1JZ (“the Applicant”)**

**Mr Steven Capstick, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £5350.**

**Background**

1. This is an application dated 4<sup>th</sup> June 2021, purportedly made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) seeking an order for payment in the sum of £5900 less a tenancy deposit that had been returned. The Applicant’s representative included with the application a copy of the short assured tenancy agreement between the parties, which tenancy commenced on 11<sup>th</sup> November 2016 at a monthly rent of £550, and a rent schedule. The tenancy ended on 29<sup>th</sup> October 2020.
2. Service upon the Respondent was carried out on the Housing and Property Chamber website in terms of Rule 6A of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended from 14<sup>th</sup> September until 18<sup>th</sup> October 2021.

## **Case Management Discussion**

3. A Case Management Discussion (“CMD”) took place by telephone conference on 19<sup>th</sup> October 2021. The Applicant was in attendance. The Respondent was not in attendance.
4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
5. The Applicant confirmed that the application ought to have been made in terms of Rule 70. The application was amended accordingly.
6. Following discussion and a short adjournment to allow the Applicant to gain clarity on the amount of deposit that had been returned to the Applicant's representatives by the approved tenancy deposit scheme, the Tribunal decided to grant an order for payment in the sum of £5350, which was made up of the rent arrears of £5900 less the tenancy deposit of £550.

## **Findings in Fact and Law**

7.
  - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 11<sup>th</sup> November 2016 at a monthly rent of £550, and a rent schedule.
  - ii. The tenancy ended on 29<sup>th</sup> October 2020.
  - iii. Rent lawfully due in terms of the tenancy was not paid by the Respondent.
  - iv. The Applicant is entitled to recover rent lawfully due.

## **Reasons for Decision**

8. Rent lawfully due in terms of the tenancy agreement between the parties remains outstanding. The Applicant is entitled to recover rent lawfully due.

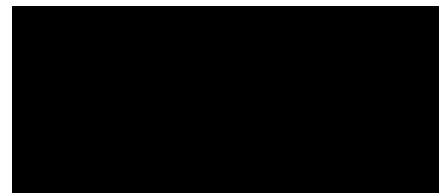
## **Decision**

9. An order for payment is granted in favour of the Applicant in the sum of £5350.

## **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.**



**Legal Member/Chair**

**19<sup>th</sup> October 2021**  
**Date**