



**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/22/3267

**Re: Property at 10 North Bridge Street Lane, Bathgate, EH48 4PR (“the
Property”)**

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

**Mrs Karen Aitken, sometime 10 North Bridge Street Lane, Bathgate, EH48 4PR,
whose present whereabouts are unknown (“the Respondent”)**

**Tribunal Member:
George Clark (Legal Member)**

**Decision (in absence of the Respondent)
The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be dismissed.**

Background

By application, received by the Tribunal on 7 September 2022, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £10,110.00. The Applicant also sought interest on that sum at 5.75% from the date of the Order until payment.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties, commencing on 16 July 2014 at a rent of £510 per month. The Applicant also provided a Rent Statement showing arrears as at 1 August 2022 of £10,110.00. The Rent Statement indicated a number of rent increases during the tenancy and that the Respondent had paid these increased sums, so must be assumed to have accepted the rent increases. The rent at the date of the application was £580 per month.

First Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 9 January 2023. Neither Party was present or represented and the Tribunal made an Order for Payment based on written representations.

The Applicant then requested a Recall of the Tribunal's Decision on the ground that they had "mis-diaried" the date of the Case Management Discussion. The Applicant wished to have the opportunity to address the Tribunal on the issue of interest on the Order for Payment (the request for interest having been refused by the Tribunal). The Respondent continued to occupy the Property without making any payment at all and the arrears as at 1 January 2023 were £13,010.

The Tribunal accepted that it was in the interests of justice that its original Decision be recalled and a date for a further Case Management Discussion was intimated to the Parties. As the Tribunal had been advised that the Respondent had vacated the Property, intimation to her was by means of advertisement on the Tribunal's website between 25 May 2023 and 27 June 2023.

Second Case Management Discussion

A second Case Management Discussion was led by means of a telephone conference call on the morning of 27 June 2023. Neither Party was present or represented. The Tribunal Member confirmed that the Applicant had not contacted the Tribunal to advise of any difficulty in joining the conference call.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation it required to enable it to decide the application without a Hearing.

The Tribunal noted that the Parties were not present or represented. This was the second occasion on which the Applicant had failed to appear or be represented. The Tribunal did not regard a second absence as excusable and was, in any event, unable to determine the amount being sought. Accordingly, the Tribunal dismissed the application.

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.

G Clark

27 June 2023

Legal Member/Chair

Date