



**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/18/1651

**Re: Property at 53 Spruce Road, Abronhill, Cumbernauld, G67 3AX (“the
Property”)**

Parties:

Mr Steven Hall, Unit 1, Faraday Court, Dundee, DD2 3UD (“the Applicant”)

**Miss Amy Beattie, 53 Spruce Road, Abronhill, Cumbernauld, G67 3AX (“the
Respondent”)**

Tribunal Members:

Neil Kinnear (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

This is an application for a payment order dated 29th June 2018 brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought in his application payment of arrears in rental payments of £2,982.00 in relation to the Property from the Respondent, and provided with his application copies of the short assured tenancy agreement and copy rent arrears statement.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 23rd August 2018, and we were provided with the execution of service.

A hearing was held on 11th September 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant's representative advised the Tribunal that since the date when the application was lodged, the Respondent had made no further payment of rental.

She requested that we adjourn the hearing, in order that she might amend the sum sought in the application to the arrears figure which would be outstanding at the date of the continued hearing upon the assumption that no further rental payments were made by the Respondent. We duly did so for the reasons set out in the Tribunal's decision and Statement of Reasons of that date.

The Applicant thereafter duly amended the sum sought in his application to the figure of £4,467.00, and provided an updated copy rent arrears statement for that amount therewith.

The Respondent was validly served by sheriff officers with the notification of the adjourned hearing date and copies of the amendment to the application together with the updated copy rent arrears statement on 11th October 2018, and we were provided with the execution of service.

The Hearing

A continued hearing was held on 31st October 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was represented by Ms Euphemia Matheson, solicitor. The Applicant's father attended with Ms Matheson. The Respondent did not appear, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

We were invited by Ms Matheson with reference to the application and papers including the updated rent arrears statement to grant an order for payment of the amended sum of £4,467.00.

Statement of Reasons

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

"16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement and the copy updated rent arrears statement provided, and was satisfied that this disclosed an outstanding balance of rent arrears in the sum of £4,467.00. Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, we will make an order for payment by the Respondent to the Applicant of the sum of £4,467.00.

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.

Neil Kinnear

Legal Member/Chair

31/10/18

Date