

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under the Housing (Scotland) Act 1988**

Chamber Ref: FTS/HPC/CV/18/1873

Re: Property at 145 Pitkerro Road, Dundee, DD4 8EB (“the Property”)

Parties:

**Mr Umar Hayat, 18 Kingsway, Dundee, DD4 8EB (“the Applicant”)
(Represented by Mr M Brown, Michael A Brown, Solicitors, Dundee)**

**Ms Sabrina Bannister, 145 Pitkerro Road, Dundee, DD4 8EB (“the
Respondent”)**

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision (in absence of the Respondent)

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

Background

- The parties entered into a Short Assured Tenancy Agreement on 27 June 2017 (“the Agreement”).
- The initial term of the tenancy was from 30 June 2017 to 29 June 2018.
- The tenancy continued thereafter on a month to month basis in terms of Clause 1(a) of the Agreement.
- The rent payable in terms of the Agreement is £650 per month payable on the 30th day of each month.
- On 31 May 2018 the Applicant served on the Respondent a Notice under Section 19 of the Housing (Scotland) Act 1988 (“the 1988 Act”) of his intention to raise proceedings for possession of the Property as a consequence of the Respondent being in arrears of rent of £1,340.45. The Notice proceeded on grounds 8, 11 and 12 of Schedule 5 to the 1988 Act. The Notice stated that proceedings would not be raised before 15 June 2018.
- As at the date of the application to the tribunal the arrears of rent were £823.00.

The Case Management Discussion

The son of the Applicant, namely Mr Khezer Hyatt, attended the Case Management Discussion with the Applicant's representative, Mr Brown.

- As at 19 September 2018 the rent arrears had risen to £1,219.12.
- The Respondent is still in occupation of the Property.
- The Respondent is not believed to be in employment.
- The Applicant continues to receive housing benefit for the Respondent of £497.96 every 4 weeks.
- The Respondent is believed to reside in the Property with her boyfriend and 2 children believed to be around 10 and 12 years of age.
- The Applicant's representative moved the tribunal to make an order against the Respondent for payment of rent arrears of £1,219.12 being the amount due as at the date of the hearing.

Reasons for Decision

- Both at the date of service of the Notice under Section 19 of the 1988 Act and as at the date of the hearing the rent arrears fell short of the amount required to establish possession under ground 8 of Schedule 5 to the 1988 Act.
- The Respondent had persistently delayed in paying rent lawfully due.

Decision

- The Respondent having been served with an application in terms of which an order is sought for payment of rent arrears of only £823.00 the motion for an order for payment of arrears of £1,219.19 was refused.
- The Applicant is entitled to a decision in terms of which the Respondent is ordered to pay to the Applicant the sum of £823.00 and an order to that effect is therefore made.

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.

Gillian Buchanan

Date

20 September 2018