

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 16 of the Housing (Scotland) 2014 Act**

**Chamber Ref: FTS/HPC/CV/18/0061**

**Re: Property at 8 York Road, Greenock, PA16 0TY (“the Property”)**

**Parties:**

**Mr Mark Duffy, 4 Kilglen Drive, Killeavy, Newry, BT35 8JW (“the Applicant”)**

**Miss Rebecca Brown, 8 York Road, Greenock, PA16 0TY (“the Respondent”)**

**Tribunal Members:**

**Joel Conn (Legal Member)**

**Decision**

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

**Background**

1. This is an application by the Applicant for civil proceedings in relation to an assured tenancy in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent dated 14 August 2017.
2. The application was dated 10 January 2018 and lodged with the Tribunal shortly thereafter. The application was accompanied with a rent statement showing arrears as at 29 December 2017 of £1,800, being unpaid rent of £450 over four consecutive months. The lease for the said tenancy also accompanied the application and bore a rental payment of £450 per month, payable on the 29<sup>th</sup> of each month.

## **The Hearing**

3. On 5 March 2018, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at Greenock Sheriff Court, I was addressed by Miss McQuarrie, solicitor for the Applicant. There was no appearance by the Respondent and both my clerk and the Applicant's solicitor confirmed that no contact had been received from or on behalf of the Respondent since the raising of the application.
4. I instructed my clerk to hold commencement of the CMD until 10:20 and, on commencing the CMD, I instructed the Venue Assistant to have the matter called outside the Tribunal room. There was no response. I was satisfied that there was no appearance by the Respondent nor any attempt by her to make contact to provide submissions or explain her non-appearance. In the circumstances, I was satisfied to consider the application in full at the CMD in the absence of the Respondent.
5. The Applicant's solicitor addressed me on the current level of rent arrears, providing a revised Rent Schedule showing no rent payments having been received since 30 August 2017 and six consecutive monthly rent payments having been missed in total. As at 28 February 2018, the revised Rent Schedule disclosed total rent arrears of £2,700.
6. The Applicant's solicitor made a motion that the application be amended in terms of rule 13 of the Procedure Rules to seek the full £2,700 of arrears disclosed on the revised Rent Schedule but thereafter withdrew the motion and sought only the original order narrated in the application.
7. The application did not seek interest on the arrears and the Applicant's solicitor confirmed no order for interest was being made. The Applicant's solicitor confirmed no order in respect of expenses was to be made.

## **Findings in Fact**

8. On 14 August 2017, the Applicant let the Property to the Respondent by a Short Assured Tenancy with a start date of 29 August 2017 and an end date of 1 March 2018 ("the Tenancy").
9. Under the Tenancy, the Respondent was to make payment of £450 per month in rent to the Applicant on the 29<sup>th</sup> of each month. In consideration of that term, rent is due on the 28<sup>th</sup> of February in terms of the Tenancy.
10. As of 29 December 2017, there was unpaid rent of £1,800 due by the Respondent to the Applicant in terms of the Tenancy being the rent due on 29 September, 29 October, 29 November and 29 December 2017.
11. On 10 January 2018, the Applicant raised proceedings for an order for payment of rent arrears of £1,800.

12. On 5 March 2018, the Respondent was in rent arrears under the Tenancy of £2,700, being six months consecutive unpaid rent being the rent due on 29 September, 29 October, 29 November and 29 December 2017 and 29 January and 28 February 2018.
13. The Respondent provided no evidence of payment of any part of the said unpaid rent of £2,700.

### **Reasons for Decision**

14. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. I was satisfied, on the basis of the application and supporting papers, and the updated rent schedule and oral submissions provided by the applicant's solicitor at the CMD, that rent arrears of £2,700 were outstanding as at the date of the CMD, being six months of unpaid rent.
15. The application having been raised for £1,800, being the sum then due, I was satisfied that the necessary level of evidence for such civil proceedings had been provided. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the original sum sought of £1,800.

### **Decision**

16. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of the sum of £1,800 to the Applicant.

### **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.**

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Joel Conn

~~Legal Member/Chair~~

13 March 2018  
Date