



**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/23/3481**

**Re: Property at 91 Barclay Street, Stonehaven, AB39 2AP (“the Property”)**

**Parties:**

**Mrs Sheila Howarth, Michael Howarth, 24 David Street, Stonehaven, AB39 2AL  
 (“the Applicant”)**

**Mr Stuart Stronach, 91 Barclay Street, Stonehaven, AB39 2AP (“the  
 Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal Member) and Mike Scott (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
 Tribunal”) determined that an order for £11480 be granted in favour of the  
 Applicants.**

1. This was the first case management discussion in an application by the Applicant for an order of payment in respect of rent arrears arising out of the tenancy of the Property..

2. The following was submitted with the application:-

a. A copy of a summary of terms of agreement between the Applicant and the Respondent when the Respondent became a tenant in the Property commencing from 1<sup>st</sup> October 2016

b. Copy rent statement to 2<sup>nd</sup> October 2023 showing sum outstanding of £11,480.

3. Intimation of the CMD was served by sheriff officer on the Respondent on 18<sup>th</sup> December 2023 by leaving it at the Property address.

**The CMD Discussion**

1. The CMD today proceeded by way of teleconference. The Applicants attended but the Respondent did not attend nor was he represented the Tribunal allowed further time after 10 o'clock for him to dial in but there was no appearance and as the Tribunal was satisfied service of the papers and intimation of the date and time of the teleconference had been made on the Respondent by sheriff officer they deemed it fair to continue in his absence.
2. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. There were no written representations by the Respondent.
3. Mrs Sheila Howarth spoke on behalf of the Applicants and advised that she and her husband were seeking an order for payment of rent arrears. She explained that the Respondent was a long term tenant of theirs and has lived at the Property, which is a two bedroomed flat, from 1<sup>st</sup> October 2016. She advised that as he had moved from another Property of the landlords she had not given him a written lease but confirmed that it started on 1<sup>st</sup> October 2016 was a rolling lease and the rent was £140 per week. She advised that for a number of years the rent was paid regularly and if there was ever a problem they had a good relationship with the Respondent and had come to an agreement re rent. However she advised that he had been signed off from his work and stopped paying in 2022; and that he stopped communicating or responding to any communications. She advised that they believe he is still in the Property as the tenant below hears him moving. She advised the arrears are now £14,000 and that they cannot afford to continue with the tenancy due to this level of arrears. She advised that they may have to sell the Property now if they can't recoup these losses.
4. Mrs Howarth confirmed that they have tried to come to an arrangement with the Respondent, which they had previously managed to do, but for over the last year he has not responded to them nor does he answer the door or respond to any other letters or callers. She advised that due to this they sent a last pre action requirement letter before raising the conjoined action for eviction by sheriff officer. She confirmed there has been no response by the Respondent and he has not paid any further sums towards the rent.
5. When asked if she would be seeking to increase the sum sought due to the further arrears accrued she advised that they were happy to get an order for £11,480 today if possible.

## **Findings in Fact**

1. The Applicant and Respondent have entered into an assured tenancy of the Property from 1st October 2016.
2. The Applicants are the owners and Landlords of the Property
3. The Tenancy is an Assured Tenancy in terms of the Housing (Scotland) Act 1988.
4. The rent is £140 per week.
5. The arrears of rent due at date of the application were £11,480
6. The Arrears of rent at today's date are £14,000
7. The Respondent who is the tenant has not vacated the property or responded to the landlord's attempts to contact or come to an arrangement with him regarding the rent arrears.

8. The Respondent has been served notice of this application and has made no representations regarding this application.

- **Reasons for Decision**

1. The parties have entered into a verbal lease where the Respondent has leased the property from the Applicant and has agreed to pay £140 per week in rent.
2. The Respondent has failed to pay the full rent due. The Respondent is still living and in possession of the property. No rent has been paid since June 2022 and the Respondent has failed to communicate with the Applicant over several months.
3. The Respondent was served notice of this application by sheriff officer on 18<sup>th</sup> December 2023 and has not made any written representations or attended this CMD.
4. The Tribunal accepts the written evidence and verbal statements made by the Applicants who the Tribunal found clear and credible in their evidence that the rent outstanding as of the date of the application is £11480. The Applicants have advised that they do not wish to apply for an adjournment to increase the sum sought despite the increase in arrears, and are content to seek an order for arrears for £11480 which is the sum due to 2<sup>nd</sup> October 2023. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

- **Decision**

An order for payment of the sum of £11,480 is granted.

### **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.**



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**Legal Member/Chair**

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**Date 7<sup>th</sup> February 2024**

