



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

Chamber Ref: FTS/HPC/CV/23/3811

Property at 15/1F, Clarendon Crescent, Edinburgh, EH4 1PU (“the Property”)

Parties:

**Ms Denise Donovan (Formerly Rafferty), 5 Spencer Villas, Glenageary, CO
Dublin, A96 A6K6, Ireland (“the Applicant”)**

**Mr Peter Wilkinson, 15/1F, Clarendon Crescent, Edinburgh, EH4 1PU (“the
Respondent”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that a payment order should be granted against the
Respondent in favour of the Applicant.**

Background

- 1. The Applicant seeks an order for payment in relation to unpaid rent. A copy tenancy agreement, Pre Action Protocol letters and a rent statement were lodged in support of the application.**
- 2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 14 February 2024 at 2pm by telephone conference call. They were provided with a telephone number and passcode and advised that they were required to participate. On 26 January 2024, the Applicant’s solicitor lodged an updated rent statement**

and a request to amend the sum claimed to £17,400.

3. The CMD took place on 14 February 2024. The Applicant was represented by Ms Callaghan. The Respondent did not participate and was not represented. He did not contact the Tribunal in advance of the CMD or lodge written representations.

Case Management Discussion

4. Ms Callaghan told the Tribunal that the Respondent is still occupying the property. Access was allowed for a valuation of the property in October 2023 and a gas safety check in November 2023. There has been no access to the property since then, although the Applicant has asked for access to inspect the property. The photographs taken at the valuation indicate that the property is in poor condition, with water damage in the bathroom from an unreported leak. The Applicant recently sent a letter to the Respondent asking for access on 13 January, but he did not respond. In response to questions from the Tribunal, Ms Callaghan stated that the Respondent is 59 years of age and employed as a geometric engineer. The rent was paid in full until February 2023. The Applicant does not know whether he has claimed or is entitled to benefits. When the payments to the rent account stopped the Applicant contacted the Respondent on several occasions. She was told that he was waiting for payment of an invoice, then that he had been out of the country. He also advised that he was trying to sell an asset to put him in funds. However, no rental payments were forthcoming. The Applicant then issued pre action protocol information and served the notices. The Respondent lives at the property alone and the Applicant is not aware of any health issues or disabilities. The rent arrears have increased to £17400. The Applicant has a young child and wishes to reduce her working hours to look after her child but is unable to do so while covering the monthly mortgage payment of £1075 for the property from her earnings. She seeks an order for payment in relation to the unpaid rent.

Findings in Fact

5. The Applicant is the owner and landlord of the property.
6. The Respondent is the tenant of the property in terms of an assured tenancy agreement.
7. The Respondent is due to pay rent at the rate of £1450 per month.
8. The Respondent owes the sum of £17,400 in unpaid rent to the Applicant.
9. The Applicant has issued letters in compliance with the Rent Arrears Pre Action Protocol.

Reasons for Decision

10. The application was submitted with an assured tenancy agreement which commenced on 25 August 2008. In terms of the agreement, the Respondent was due to pay rent at the rate of £1250 per month. This was increased in 2011 to £1300 per month, in 2017 to £1350 per month and in 2019 to £1450 per month.
11. The Applicant submitted a rent statement with the application and an updated rent statement prior to the CMD. From the information provided at the CMD, the Tribunal is satisfied that the Respondent has made no payments to the rent account since January 2023 and now owes the sum of £17,400 in unpaid rent.
12. The Tribunal is satisfied that the Applicant is entitled to an order for payment and that, as the application gives notice to the Respondent that interest is sought at the rate of 8% per annum, that the Applicant is entitled to interest at this rate in terms of Rule 41A(1)(b) of the Tribunal Procedure Rules 2017

Decision

13. The Tribunal determines that an order for payment in the sum of £17,400 should be granted with interest at the rate of 8% from the date of the decision until payment.

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.

J. Bonnar

Josephine Bonnar, Legal Member

14 February 2024