



**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/24/1644

**Re: Property at 31 Mote Hill, Hamilton, South Lanarkshire, ML3 6EA (“the
Property”)**

Parties:

**Ms Frances McLelland, residing at 131C Railway PDE, Mount Lawley, WA 6050,
Australia (“the Applicant”)**

**Mr John Fotheringham, residing formerly at 31 Mote Hill, Hamilton, South
Lanarkshire, ML3 6EA and whose current whereabouts are unknown (“the
Respondent”)**

Tribunal Members:

Andrew Cowan (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum of £3565.32 is lawfully due by the Respondent and granted an order for payment of that sum by the Respondent to the Applicant.

Background

1. By an application dated 10 April 2024 (“the Application”), the Applicant sought an order for payment of £3565.32 from the Respondent in respect of rent arrears.
2. A Case Management Discussion (“CMD”) took place by teleconference on 17 January 2025.

3. In advance of the CMD the Application had been intimated upon the Respondent by Advertisement on the Tribunal website from 04 December 2024. In terms of Rule 6(A) of the Tribunal rules of procedure the Application is deemed to have been served upon the Respondent.
4. The Tribunal was satisfied that the Respondent had been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”) had been duly complied with. In the circumstances the Tribunal proceeded with the Application in accordance with rule 29 of those Procedure Rules.
5. At the CMD on 01 November 2024 the Applicant was represented by Mr Marcus Whyte, solicitor. The Respondent did not join the CMD conference call.
6. At the CMD the Tribunal was able to consider:
 - a. The terms of the tenancy agreement between the parties. The tenancy agreement was a Private Residential Tenancy Agreement in relation to the Property. The tenancy between the parties had commenced 31 January 2019. The initial monthly rent due in terms of the tenancy agreement between the parties was £575.00 per month. The rent had thereafter been increased during the term of the tenancy to £610 per month.
 - b. A rent statement showing the sum of £3565.32 as due by the Respondent to the Applicant by way of rent arrears as of 22 February 2024.

Further Information:

7. Mr Whyte explained to the Tribunal that the Respondent had left the Property. It was not possible to confirm the exact date that the Respondent had left the Property as the Respondent did not give notice to the Applicant, and he did not return any keys to the Property. Sheriff Officers had attempted to serve papers for the tribunal upon the Respondent on 17 September 2024. At that time the Sheriff Officers had not been able to effect service of these papers as the Property was lying empty. The Tribunal were satisfied, however, that as at the 22 February 2024 the tenancy between the parties had not been terminated and that the Respondent was liable for rent in terms of the tenancy agreement up to, and beyond, that date. As of 22 February 2024, the Respondent had accrued rent arrears in the sum of £3565.32 as shown in the rent statement which the Applicant had lodged with the Tribunal. That rent statement had been included in a letter which had been sent by the Respondent to the Applicant on

22 February 2024. The Respondent has not been in contact with the Applicant, or her agents, to dispute the figure claimed. No payment had been made by the Respondent towards the rent arrears after the date of the Application. Mr Whyte confirmed that no part of any deposit paid by the Respondent under the terms of the tenancy agreement had been applied to the rent arrears incurred by the Respondent. Mr Whyte confirmed that the sum of £3565.32 continued to be due by the Respondent to the Applicant in respect of arrears of rent accrued by the Respondent during the term of the tenancy agreement for the period up to 22 February 2024.

8. Mr Young asked the Tribunal to grant an order for payment against the Respondent in favour of the Applicant for the sum of £3565.32.

Findings in fact, and in fact and law; reasons for decision

9. The Applicant let the Property to the Respondent in terms of a written tenancy agreement which commenced on 31 January 2019. The initial monthly rent due in terms of the tenancy agreement between the parties was £575.00 per month. The rent had thereafter been increased during the term of the tenancy to £610 per month.
10. As of 22 February 2024, the Respondent had accrued arrears of rent under the terms of the tenancy agreement between the parties in the sum of £3565.32.
11. As at the date of this CMD that sum of £3565.32 remains due and owing by the Respondent to the Applicant in respect of arrears of rent incurred by the Respondent during the term of the tenancy up to the date of 22 February 2024.

Decision

Under rule 17(4) of the Procedure Rules the First-Tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

The Tribunal accordingly granted an order for payment by the Respondent to the Applicant in the sum of £3565.32.

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.

Andrew Cowan

17 January 2025

Legal Member/Chair

Date