

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 Section 16 of the Tribunals (Scotland) Act 2014 (the 2014 Act), the Housing (Scotland) Act 1988 (the 1988 Act) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the 2017 Rules)

Chamber Ref: FTS/HPC/CV/24/1198

Re: Property at 24 Reston Drive, Glasgow, G52 2LW (the Property)

Parties:

Mr Alan Quinn, 6 Edenhall Grove, Glasgow, G77 5TS (the Applicant)

Penny Lane Homes, 10-12 High Street, Renfrew, PA4 8QR (the Applicant's Representative)

Mrs Charlene Marshall, present whereabouts unknown, previously residing at 24 Reston Drive, Glasgow, G52 2LW (the Respondent)

Tribunal Members:

**Ms. Susanne L. M. Tanner KC (Legal Member)
Ms. Ann Moore (Ordinary Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent should pay the Applicant the sum of THREE THOUSAND THREE HUNDRED AND SEVENTY FIVE POUNDS AND FORTY FIVE PENCE (£3,375.45) STERLING; and made an Order for Payment in respect of the said sum.

The decision of the tribunal was unanimous.

Reasons

Procedural Background

1. On 10 March 2025, the Applicant's Representative made an application to the tribunal in terms of Section 16 of the Tribunals (Scotland) Act 2014 (the 2014 Act), the Housing (Scotland) Act 1988 (the 1988 Act) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules).
2. In the Application, the Applicant sought a payment order against the Respondent in respect of rent arrears of £1795.00. The sum claimed was later amended twice during the proceedings in terms of Rule 14A of the 2017 Rules, the second amendment being to seek the sum of £3375.45, as discussed below.
3. The Applicants' Representative provided the following documents in support of the Application:
 - 3.1. Short Assured Tenancy Agreement; and
 - 3.2. Rent statement.
4. On 9 April 2024, further information was requested by the tribunal from the Applicant's Representative, which was provided as follows:
 - 4.1. Written authorisation from the Applicant for the Representative to act on his behalf; and
 - 4.2. Written authorisation from the joint owner of the Property for the Property to be let in the Applicant's sole name and for the Applicant to pursue this matter.
5. The tribunal's administration obtained a copy of the Title sheet for the Property on 13 September 2024, which shows that the Applicant has been the joint registered proprietor since 1 August 2016.
6. The tribunal confirmed with Landlord Registration Scotland that the Applicant is the registered landlord for the Property.
7. On 2 May 2024, the Application was accepted for determination by the tribunal. A Case Management Discussion (CMD) teleconference was fixed for 29 August 2024 at 1400 by teleconference.
8. The tribunal sent letters of notification to the Applicant dated 29 July 2024, with the date, time and arrangements for joining the CMD in relation to the Application. The Respondent was required to make written representations in response to the Application by 19 August 2024. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at

a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. The parties were also advised that if they do not attend the CMD this would not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was served with the Application paperwork and notification of the CMD by Sheriff Officers on 31 July 2024.

9. On 23 August 2024, the Applicant's Representative submitted an updated rent statement dated 23 August 2024. A copy was sent to the Respondent on 26 August 2024.
10. On 29 August 2024, the CMD was chaired by a differently constituted tribunal. The Applicant's Representative and the Applicant attended. The Respondent attended. During the CMD the Applicant's Representative made a motion in terms of Rule 14A of the 2017 Rules to amend the sum claimed to £3610.00. The Respondent stated that she had withheld payment of rent in January and February 2024 as her gas boiler had been broken and she had been without heating for seven weeks. The Respondent was told that if she wished to adopt this argument she would have to provide evidence before the next CMD. The CMD was adjourned to a further CMD. The Notes of that Case Management Discussion were prepared by the Legal Member chairing the CMD and are referred to for their full terms. They were sent to both parties after the CMD. A related eviction application (EV/24/1197) was chaired by that tribunal on the same day and an order was made on 29 August 2024 for the Respondent's eviction from the Property.
11. On 11 September 2024, the Respondent submitted screenshots of text messages. She also stated in the cover email that there were numerous phone calls regarding the boiler and other issues. A copy of her email and evidence was sent to the Applicant's Representative.
12. On 12 September 2024, the Applicant (himself, rather than his representative) sent an email with written submissions to the Tribunal in relation to the evidence submitted by the Respondent stating that neither he, nor the letting agent, recognised the mobile number in the screenshots.
13. On 16 October 2024, the Applicant's Representative submitted an updated rent statement and a copy was sent to the Respondent.
14. On 4 November 2024, an updated and final rent statement dated 10 October 2024 was sent in relation to the case and a copy was sent to the Respondent.

15. The second CMD was fixed for 29 January 2025 and both parties were notified of the date, time and joining instructions by letter of 13 December 2024. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. The parties were also advised that if they do not attend the CMD this would not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.
16. On 14 January 2025, the Applicant's Representative re-submitted the final rental statement dated 10 October 2025 and made an application to amend the sum claimed in terms of Rule 14A of the 2017 Rules to £3375.45.
17. On 26 January 2025, the Respondent requested a postponement of the CMD stating that she had just realised she had a hospital appointment that day. The Applicant's Representative opposed the postponement. The tribunal considered the request and the opposition and requested supporting evidence. The Respondent replied on 28 January 2025 to state that *'my placement has advised I can nip into a room to do this please confirm time tomorrow as I can't see original email'*. The postponement request was withdrawn. The tribunal re-sent the joining details for the CMD.
18. The second CMD took place on 29 January 2025. The Applicant's Representative and the Applicant attended. The Respondent attended. During the CMD the sum claimed was amended in terms of Rule 14A of the 2017 Rules to amend the sum claimed to £3,375.45. During the CMD, parties agreed that the rental arrears for the period from the beginning to the end of the tenancy on 2 October 2024 were £3,375.45. However, there was a factual dispute about whether or not the heating and direct hot water in the Property had been operational in around January and February 2024, and if not, the legal effect of that on the rent arrears claim. The case was adjourned to an evidential hearing on a date to be fixed. The Applicant was asked to lodge the gas engineer's report and a record of any telephone calls made by the Respondent to the letting agent around the relevant time. The Respondent told the tribunal that she was a student nurse and not in a position to pay more than £5.00 per month towards rent arrears, until receipt of her bursary in September 2025. Both parties were asked to lodge a list of any witnesses they wished to call at the hearing. The Notes of that Case Management Discussion were prepared by the Legal Member chairing the CMD and are referred to for their full terms. They were sent to both parties on 5 February 2025 after the CMD.
19. On 17 July 2025, the Respondent requested a postponement of the hearing on 14 August 2025, stating: *'Good morning can this be rescheduled as I have my articulation week for university this week. Thanks in advance.'*

20. On 22 July 2025, the tribunal gave directions to its administration to send the following to the Respondent in relation to the postponement application: *‘Please provide evidence to the tribunal’s administration no later than 30 July 2025 of the details and times of any University commitments on the date of the hearing, between 10am and 4pm.’*

21. The Respondent did not reply to the tribunal by 30 July 2025 (or at all).

22. On 25 July 2025, the Applicant’s Representative lodged written submissions and a bundle of documents in advance of the hearing, including:

- 22.1. Photographs of Property;
- 22.2. Screenshot of message and image;
- 22.3. Correspondence with Alpha innovation regarding boiler in Property;
- 22.4. Rental statement dated 10 October 2024;
- 22.5. Report from Wise Property Care dated 5 December 2022, with invoice and guarantee;
- 22.6. Service Visit Report from Alpha Property Care dated 12 March 2024; and
- 22.7. Boiler Care Plan renewal for period 21 November 2019 to renewal on 20 November 2024.

23. On 4 August 2025, a Direction from the tribunal dated 31 July 2025 was issued by the tribunal’s administration to the Respondent in the following terms:

‘1. The Respondent is required to provide the following to the tribunal’s administration no later than 7 August 2025 at 12 noon:

Evidence of the details and times of any University commitments on the date of the hearing, between 10am and 4pm, in relation to the Respondent’s application for a postponement of the Case Management Discussion which is due to take place on 14 August 2025.

If the Respondent does not produce the required evidence by the date ordered, the Respondent’s application for postponement of the CMD will be treated as withdrawn and the CMD will proceed at the date and time notified.

2. The Case Management Discussion will proceed on the date and time notified unless and until the tribunal receives the required information and makes a decision about whether to postpone to another date.

The parties is [are] hereby given notice of the terms of the Scottish Tribunals (Offences in Relation to Proceedings) Regulations 2016, which state that in any proceedings before the First-tier Tribunal it is an offence for any person to—

a) make a false statement in an application in a case;

b) alter, conceal or destroy, or fail to produce, something that is required to be produced in accordance with Tribunal Rules; or

c) fail to attend or give evidence when required to do so in accordance with Tribunal Rules. ...'

24. The Respondent did not comply with the orders in the tribunal's Direction by 7 August 2025 (or at all).

25. The Respondent did not lodge any submissions, or documents in advance of the hearing.

CMD: 14 August 2025, 1000h, Teleconference

26. Mr Troy attended from the Applicant's representative. The Applicant attended.

27. The Respondent did not attend or make any contact with the tribunal's administration. The tribunal was satisfied that the requirements of Rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the material before it and the representations of the party present, in term of Rule 29 of the 2017 Rules.

Applicant's Representative's submissions

28. Mr Troy confirmed that the Applicant is seeking a payment order for the amended sum of £3375.45. This represents rent arrears for the period from the start of the tenancy on 7 September 2016 to the end of the tenancy on 2 October 2024. This figure for rent arrears for that period was agreed by both parties at the CMD on 29 January 2025. The supporting evidence is in the bundle lodged, in particular the tenancy agreement and the rental statement dated 10 October 2024.

29. The tribunal makes the following findings-in-fact:

29.1. The Applicant is one of the registered proprietors of the Property.

29.2. The Application has been made with the consent of the co-proprietor.

29.3. There was a short assured tenancy agreement between the Applicant and the Respondent for the Property which began on 7 September 2016.

29.4. Rent was payable at the rate of £625.00 per calendar month on 14th day of each month in advance.

- 29.5. The Respondent has been permanently in arrears of rent since 1 June 2023.
- 29.6. The last payment of rent made by the Respondent was £625.00 on 13 June 2024.
- 29.7. The Respondent was evicted from the Property by order of the tribunal dated 29 August 2024.
- 29.8. The tenancy ended on 2 October 2024.
- 29.9. As at the end of the tenancy on 2 October 2024, the rent arrears were £3,375.45.
- 29.10. The Respondent has made no payments towards rent arrears since the tenancy ended.
- 29.11. As at 14 August 2025, the Respondent was in arrears of rent of £3,375.45.

Discussion

30. The Respondent's last substantive engagement with the proceedings was at the CMD on 29 January 2025, in which she stated that she wished to put forward a partial defence to the Application on the basis that she withheld some/all of the rent due for the period of around seven weeks in January and February 2024 (unspecified amount) because she alleged that the heating and direct hot water was not available over that period. The only evidence lodged to support this contention is screenshots of text messages, the provenance of which she is aware was challenged by the Applicant. She has not made any legal submissions about what the effect of proving that the heating /hot water was not operational for a seven week period would be, even were she to have established this as a fact. She has not responded to the Applicant's submissions and evidence lodged on 25 July 2025, or lodged anything other than the screenshots.
31. In relation to the postponement request made on 17 July 2025, she failed to supply the supporting evidence she was asked to provide and then ordered to provide in the tribunal's Direction dated 31 July 2025. She was directed that the hearing would proceed. She has now disengaged from the proceedings. She did not attend the hearing on 14 August 2025. She has not insisted on any relevant and specific defence to the Application. Even had she insisted on the defence raised at the CMD, it would only ever have been a partial defence to the rent arrears which are agreed.

32. The tribunal took into account the overriding objective to deal with proceedings justly, which includes: '*(e) avoiding delay, so far as compatible with the proper consideration of the issues*' and '*(a) dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties.*' The Application was made on 11 March 2024 and accepted on 2 May 2024. The Respondent was evicted from the Property in related eviction proceedings and the tenancy ended on 2 October 2024. The full amount of rent arrears had been known since that time. The second CMD was on 29 January 2025 and the figure for rent arrears was agreed, subject to any abatement for the seven week period referred to. The Applicant is entitled to have the Application dealt with a manner which is in accordance with the overriding objective.
33. The tribunal determined on the basis of the Application, including supporting documents that the Applicant has proved that the Respondent owes the Applicant the amended sum of £3,375.45 in respect of rent arrears from the beginning of the tenancy on 7 September 2016 to the end of the tenancy on 2 October 2024.
34. The tribunal made an order for payment by the Respondent to the Applicant for the said sum of £3,375.45.

Ms Susanne L. M. Tanner K.C.
Legal Member/Chair

14 August 2025