

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 Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/25/0945

Re: Property at Flat 3/3, 73 Otago Street, Glasgow, G12 8PQ (“the Property”)

Parties:

**Scottish Midland Co-operative Society Limited, Hillwood House, 2 Harvest Drive,
Edinburgh, EH28 8QJ (“the Applicants”)**

**Mr Shen Haoran, sometime Flat 3/3, 73 Otago Street, Glasgow G12 8PQ, but
whose present whereabouts are unknown (“the Respondent”)**

**Tribunal Member:
George Clark (Legal Member)**

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a Hearing
and made an Order for Payment by the Respondent to the Applicants of the sum
of £4,462.47. The Applicants’ requests for interest and expenses were refused.**

Background

1. By application dated 4 March 2025, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £4,462.47. The Applicant also sought interest on that sum at the rate of 3% per annum from the date of the Tribunal’s Order until paid.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 25 August 2023 at a rent of £1,600 per month, and a Rent Statement showing arrears as at 20 February 2025 of £4,462.47.
3. On 14 July 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 1 August 2025. As the Respondent’s whereabouts were unknown, service was effected by advertisement on the Tribunal’s

website from 23 July 2025 to 28 August 2025. The Respondent did not make any written representations to the Tribunal.

4. On 13 August 2025, the Applicants sought to amend the application by increasing the sum sought to £5,910.95, the increase being the legal fees they had incurred in recovering the debt. They directed the Tribunal to Clause 37 of the Tenancy Agreement which entitled the Applicants to pursue the Respondent for any reasonable costs incurred as a result of the tenant's failure to pay rent on time. These, they said were not judicial expenses sought under Rule 40 of the Tribunal Rules. They arose solely from the enforcement of the existing contractual obligations following a breach by the Respondent.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 28 August 2025. The Applicant was represented by Mr Gregory Smart of Gilson Gray LLP, solicitors, Edinburgh. The Respondent was not present or represented. Mr Smart advised the Tribunal that the rent arrears remained outstanding, and he referred the Tribunal to the written representations of 13 August 2025 on the matter of expenses.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations") provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. The Tribunal was satisfied that the sum sought in the application by way of rent arrears has become lawfully due by the Respondents to the Applicant.
8. The Tribunal was not prepared to award interest on the sum sought until paid. The Tenancy Agreement does not provide for interest on unpaid rent and it would only be in a situation where it did so provide that the Tribunal would consider awarding interest.
9. Rule 40 of the 2017 Regulations provides that "The Tribunal may award expenses as taxed by the Auditor of the Court of Session against a party but only where that party through unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense." The view of the Tribunal was that, although the tenancy agreement entitles the Applicants to pursue the Respondent for any reasonable costs incurred as a result of the Respondent's failure to pay rent on time, it cannot have been envisaged by the Scottish Government when introducing the Regulations that a party could add legal expenses of an application to their claim for an Order for Payment in respect of unpaid rent. The view of the Tribunal was that Rule

40 was designed to limit the ability of parties to seek expenses, judicial or otherwise, of a Tribunal application. The application process is intended to be useable by parties themselves, with an online application form and less formal procedures than would be expected in the sheriff court. The Tribunal is quite used to dealing with party litigants and does not consider that they are disadvantaged by not having legal representation. If it does form the contrary view in a particular instance, it has the option of continuing the case to allow parties to consider whether they should seek legal advice. Parties are, of course, entitled to instruct solicitors and others to act on their behalf, but that is their choice. The Regulations do not permit them to seek to recover legal expenses at the Tribunal which is considering an application in respect of rent arrears or other breach of contract.

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.

George Clark

Legal Member/Chair

28 August 2025
Date