

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 'The Procedure Rules) in relation to an application for civil proceedings relative to an Assured Tenancy under Rule 70 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/24/5462

Re: 2 Carrick Vale, Motherwell, ML1 5RP ("the Property")

Parties:

James Doherty, 37-39 Glenburn Road, College Milton, East Kilbride, G74 5BA ('the Applicant')

Gordon Love residing at 43 Adamson Street, Bellshill, ML4 1DT ('the Respondent')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Member: Jacqui Taylor (Legal Member)

Background

1. The Applicant submitted an application to the Tribunal dated for payment of the sum of £3730.16 rent arrears plus interest from 24th June 2024.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicant were:

2.1 Short Assured Tenancy agreement between the parties dated 10th January 2013. The commencement date of the lease was 10th January 2013. The rent due in terms of the tenancy was £550 per month payable in advance.

2.2 A copy of Form AT5 dated 10th January 2013.

2.3 A copy of the letter to the Respondent dated 17th April 2024 advising that the rent would increase to £1750 from 21st June 2024.

2.4 An email from the Applicant to the Tribunal dated 25th March 2025 advising that the Tenant vacated the Property on 24th June 2024 without providing any notice

and under the lease they were due to pay the rent to 24th August 2024. The last rent payment made by the Tenant was on 10th June 2024 in the amount of £379.73 which left a balance of £3730.14 as at 25th August 2024. The rent increase letter was sent recorded delivery but he cannot locate the proof of delivery receipt.

2.5 A rent statement for the period 10th January 2013 to 25th August 2024 showing that a deposit of £550 had been paid on 10th January 2013 and the outstanding sums comprised two rent payments of £1750 due on 21st June 2024 and additional rent of £230.14 which totalled £3730.14.

2.6 A copy of an undated text message which states that the balance is paid to 21st June 2024.

2.7 A copy of a text message dated 20th June 2024 which states that the rent increase is not a reasonable rate and they could not afford to pay it.

3. By Notice of Acceptance by Ruth O'Hare, Convener of the Tribunal, dated 16th April 2025 she intimated that she had decided to refer the application (which application paperwork comprises documents received between 25th November 2024 and 25th March 2025) to a Tribunal.

4. The Respondent's Written Representations.

The Respondent sent the Tribunal an email dated 15th September 2025. He explained that he wished to provide his side of the situation. The email stated that a photograph of a full letter explaining his position was provided. There was no letter attached to the email but copies of the following text messages had been attached:

4.1 A Text from the Applicant's Representative to the Respondent dated 21st June 2024 stating that it was inexplicable that two months notice was not given.

4.2 A Text from the Applicant's Representative to the Respondent dated 21st June 2024 stating that if they did not receive payment of £1093 by close of business that day he would commence legal proceedings.

4.3 A Text dated 24th June 2024 from the Respondent stating that they have left the Property and the keys would be posted to their office that day.

5. The Case Management Discussion

5.1 This case called for a conference call Case management Discussion (CMD) at 10.00am on 6th October 2025.

The Applicant, James Doherty, attended the CMD. The Respondent did not attend the CMD and he was not represented.

The Respondent had been served with a letter advising him of the CMD by Christopher Andrew, Sheriff Officer, on 26th August 2025. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

5.2 Mr Doherty advised:

5.2.1 The rent arrears due amount to £3730.16. The Respondent had vacated the Property on 24th June 2024 after he had received the rent increase letter. The Respondent did not give the Applicant two months prior notice as required in terms of clause 1 of the lease. He acknowledged that the rent statement produced states that the rent arrears amounts to £3730.14. He confirmed that this was the correct amount.

5.2.2 The deposit of £550 had been paid to him after the end of the tenancy and should be deducted from the sums sought. He will be making a separate application in relation to the condition of the Property at the end of the tenancy.

5.2.3 He had not served the Respondent with form AT2 and the details of the rent increase were contained in the letter dated 17th April 2024 that has been produced.

5.2.4 He sought interest but advised that he would leave the amount of interest to the Tribunal.

5.2.5 He has not leased the Property since the Respondent vacated the Property.

6. Decision

6.1 The Tribunal made the following findings in fact:

6.1.1 The Applicant is Landlord and heritable proprietor of the Property. The Title of the Property is LAN 108627.

6.1.2 The Respondent was Tenant of the Property in terms of the Short Assured Tenancy agreement between the parties dated 10th January 2013.

6.1.3 The commencement date of the lease was 10th January 2013.

6.1.4 The Respondent vacated the Property on 24th June 2024.

6.1.5 The Tenant did not provide the Applicant with two months prior notice that he was terminating the tenancy.

6.1.6 The rent due in terms of the lease was £550 per month payable in advance.

6.1.7 The Applicant had sent the Respondent a letter dated 17th April 2024 which stated that the rent was being increased to £1750 per month with effect from 21st June 2024.

6.1.8 The Respondent had paid a deposit of £550 at the start of the lease. The deposit was paid to the Applicant after the Respondent had vacated the Property.

6.2 The Tribunal acknowledged that:-

6.2.1 Clause 1 of the tenancy agreement states that the lease may be terminated by either party giving no less than two months notice to the other party.

6.2.2 Clause 2(a) of the tenancy agreement states that the rent may be increased at a fair rate after the initial six month tenancy.

6.2.3 The Respondent had not made an application to the Tribunal to determine the rent in terms of section 34 of the Housing (Scotland) Act 1988.

6.2.4 The Respondent did not provide the Tribunal with any material or evidence to enable it to determine if the rent review clause within the tenancy agreement is fair or unfair.

6.2.5 The Respondent was due rent to 24th August 2024, being two months after he had vacated the Property, less the amount of the deposit.

6.3 The Tribunal acknowledged that Sheriff O'Carroll in the Upper Tribunal decision of *Horne v Slash Property Limited* 2024 UT 36 confirmed that section 71 of the Consumer Rights Act 2015 ('the 2015 Act') places a proactive duty on the Tribunal when dealing with proceedings relating to a consumer contract to consider if the terms of a consumer contract are fair, even if the issue has not been raised by the parties. However, that duty is only triggered if the Tribunal has sufficient legal and factual material to make the assessment. As the Tribunal had no material before it in relation to the fairness of the rent review clause they are unable to make a

determination on whether or not the review clause is fair in terms of section 71 of the 2015 Act.

6.4 The Tribunal determine that the Respondent is due to pay the Applicant the sum of £3180.14 being the amount of the outstanding rent in terms of the rent statement produced of £3730.14 less the amount of the deposit of £550 and accordingly they issued an Order for Payment in the sum of £3180.14.

6.5The Tribunal did not accept that interest was due. There was no provision for payment of interest in the tenancy agreement and there is no provision for judicial interest in terms of the Procedure Rules.

7. 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.

Jacqui Taylor

..... Legal Member 6th October 2025