

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/25/3376

Re: Property at 4B Marryat Terrace, Dundee, DD3 8AP (“the Property”)

Parties:

Mrs Elaine Kenneth (formerly Petrie), C/O Kenneth Property Limited, 4 Valentine Court, Dunsinane Industrial Estate, Dundee, DD2 3QB (“the Applicant”)

Ms Zoe Henry, 4B Marryat Terrace, Dundee, DD3 8AP (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £1950 should be granted in favour of the Applicant.

Background

1. An application was received from the Applicant on 6 August 2025 seeking a payment order in terms of rule 70 (Application for civil proceedings in relation to an assured tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for payment of £1950 in respect of rent arrears which were alleged to be due by the Respondent to the Applicant.
2. Attached to the application form were:
 - (i) Copy assured tenancy agreement between the parties in relation to the property, which commenced on 1 May 2012.

- (ii) Letter dated 17 June 2025 from the Applicant's solicitor to the Respondent regarding her outstanding rent arrears, and enclosing notice to quit and form AT6.
 - (iii) Copy certificate of service confirming service of the letter on the Respondent by sheriff officer on behalf of the Applicant on 18 June 2025.
 - (iv) Rent statement showing the Respondent's outstanding rent arrears to be £18826.53 as at 1 June 2025.
- 3. The application was accepted on 22 August 2025.
- 4. The Applicant's solicitor had also submitted two applications by Kenneth Property Ltd, the current landlord of the property. These were an eviction application (reference no: FTS/HPC/EV/25/3659) and a further civil proceedings application (reference no: FTS/HPC/CV/25/3377) for a payment order in respect of outstanding rent arrears.
- 5. Notice of the case management discussion (CMD) scheduled for 29 January 2026, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 8 December 2025. The Respondent was invited to submit written representations by 26 December 2025.
- 6. Further information, including an updated rent statement and text messages between the parties, was received from the Applicant's solicitor on 22 January 2026.
- 7. No written representations or time to pay application were received from the Respondent prior to the CMD.

The case management discussion

- 8. A CMD was held by teleconference call on 29 January 2026 to consider the present application and the two conjoined applications mentioned above. The Applicant was represented on the teleconference call by Ms Alison Fitzgerald of Lindsays solicitors.
- 9. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. She did not join the teleconference call, however, and no telephone calls, messages or emails had been received from her.
- 10. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case

management discussion had been duly complied with. It also noted that the Tribunal administration had received a phone call from the Respondent the previous day, which indicated that she was aware of the CMD. The Tribunal therefore proceeded with the CMD in the absence of the Respondent.

Submissions on behalf of the Applicant

11. Ms Fitzgerald asked the Tribunal to grant a payment order in favour of the Applicant against for the sum of £1950 owed by the Respondent in rent arrears.
12. The Respondent had been in rent arrears since May 2012 and now owed a total of £18990.13. The Applicant had previously been the owner of the property and was the landlord under the tenancy agreement from 1 May 2012 until 23 August 2022. On 24 August 2022, the title to the property had been transferred to Kenneth Property Ltd, the current landlord.
13. The Applicant had not taken action to recover the rent arrears owed by the Respondent prior to making the present application. Therefore the Applicant was only legally entitled to claim the debt owed by the Respondent dating back to 5 years before the application was made. The application therefore related to the arrears due from 1 August 2020 to 1 August 2022, which totalled £1950.
14. The Tribunal noted that the rent statements submitted were unclear and difficult to follow. It therefore explored in some detail with Ms Fitzgerald how the sum sought had been calculated.

Findings in fact

15. The Tribunal made the following findings in fact:
 - The Applicant (then known as Elaine Petrie) and the Respondent entered into an assured tenancy with regard to the property on 1 May 2012.
 - The rent payable under the tenancy has been £450 per month, due on the first of each month, since its commencement.
 - As at the date of the CMD, the Respondent's total rent arrears totalled £18990.13.
 - The Applicant had attempted to engage with the Respondent regarding payment of the arrears prior to bringing the application via numerous text messages.
 - The Applicant had formally notified the Respondent of her intention to pursue an application for payment of the rent arrears on 18 June 2025.
 - The Applicant had also served a notice to quit on the Respondent citing rent arrears grounds 11 and 12 on 18 June 2025.

- As at the date of the CMD, the Respondent owed the Applicant at least £1950 in rent arrears for the period in question.

Reasons for decision

16. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.
17. No written representations had been received from the Respondent to indicate that she opposed the application. She had not made an application for a time to pay direction.
18. On the basis of all the evidence before it, including the oral submissions of Ms Fitzgerald at the hearing regarding the sum owed, the Tribunal was satisfied that the Respondent owed £1950 in rent arrears to the Applicant in respect of the period from 1 August 2020 to 1 August 2022.

Decision

The Tribunal grants an order for payment by the Respondent to the Applicant for the sum of £1950.

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.

Sarah O'Neill

29 January 2026

Legal Member/Chair

Date

