



**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/19/0016

**Re: Property at No 1 Burnbrae Farm Cottages, Nenthorn, Kelso, TD5 7RY (“the
Property”)**

Parties:

**Mr Robin Thomson, Cakemuir Cottage, Nenthorn, Kelso, TD5 7RY (“the
Applicant”)**

Mr Jamie Wright, 10 High Croft, Kelso, TD5 7ND (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. This is an application by the Applicant for civil proceedings in relation to an assured tenancy in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent dated 23 January 2017.
2. The application was dated 3 January 2019 and lodged with the Tribunal shortly afterwards. The application was accompanied with a rent statement showing purported arrears to 1 January 2019 of £1,485, being missed rental payments of 1 November and 1 December 2018 and 1 January 2019, each of £495 a month.

The Hearing

1. On 12 March 2019, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at Langlee Community Centre, Galashiels, I was addressed by the Applicant.
2. There was no appearance by the Respondent. The Applicant confirmed that no contact had been received from the Respondent in regard to the application. The Tribunal Clerk confirmed no contact had been received from the Respondent to the Tribunal.
3. The Applicant confirmed that the application was still insisted upon and he sought an order in the amount of £1,485. He confirmed this was the total arrears of rent up to the end of the lease as the Respondent vacated during January 2019.
4. The Applicant further sought interest. He initially proposed seeking historic interest on all late payments (including payments said to have been paid late prior to 1 November 2018) but acknowledged that such a claim for historic arrears was not referred to within his application. He withdrew such an interest claim and sought only contractual arrears set out in the lease from the date of raising the application.
5. The Applicant moved to amend the address of the Respondent to 10 High Croft, Kelso, TD5 7ND, being an address he had provided to the Tribunal earlier and at which the Tribunal had intimated the CMD papers upon the Respondent. This amendment was allowed.

Findings in Fact

6. On 23 and 24 January 2017, the Applicant let the Property to the Respondent by lease with a start date of 1 February 2017 and a duration of six months thereafter continuing “on a monthly basis until terminated” (“the Tenancy”).
7. Under the Tenancy, the Respondent was to make payment of £495 per month in rent in advance to the Applicant on the 1st day of each month.
8. Clause 19.2 of the Tenancy agreement permitted the Applicant to seek “interest at the annual rate of eight percent from the respective dates on which [unpaid sums became]... due until payment”.
9. The Respondent left the Property during January 2019.

10. As of 1 January 2019, there was unpaid rent of £1,485 due by the Respondent to the Applicant in terms of the Tenancy in respect of missed rental payments due on 1 November 2018, 1 December 2018 and 1 January 2019 of £485 each.
11. On or about 3 January 2019, the Applicant raised proceedings for an order for outstanding rent due in the sum of £1,485.
12. A Sheriff Officer acting on the instructions of the Tribunal served the application and intimation of the CMD upon the Respondent at his new address of 10 High Croft, Kelso, TD5 7ND on 25 February 2019.
13. The Respondent provided no evidence of payment of any part of the said unpaid rent due to 3 January 2019 of £1,485.

Reasons for Decision

14. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. I was satisfied, on the basis of the application and supporting papers, and the submissions provided by the Applicant at the CMD, that rent arrears of £1,485 were outstanding as at 3 January 2019 and remained outstanding. I was thus satisfied that the necessary level of evidence for such civil proceedings on the sum of £1,485 had been provided.
15. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the sum of £1,485 against the Respondent along with contractual interest of 8% per annum on that sum from the date of the application of 3 January 2019 onwards until payment.
16. I noted that the application was limited to the rent arrears due under the lease and the Applicant reserved his position in regard to any further claim under the lease against the Respondent regarding any other potential breach of the lease.

Decision

17. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of the sum of £1,485.00 to the Applicant with interest at 8% per annum from 3 January 2019 until payment.

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.

J.Conn

Legal Member/Chair

Date

12 March 2019