

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/20/0151

**Re: Property at 1st Floor Flat, 197 Brook Street, Broughty Ferry, Dundee, DD5
2AG ("the Property")**

Parties:

**Strachmor Limited Company NO SC299400, 383 Brook Street, Broughty Ferry,
Dundee, DD5 2DS ("the Applicant")**

**Mrs Alison McKelvie, 1st Floor Flat, 197 Brook Street, Broughty Ferry, Dundee,
DD5 2AG ("the Respondent")**

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the order for payment is granted to the amount of
£8782.72.**

Background

1. This case should be read in conjunction with FTS/HPC/EV/20/0152.
2. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). The Applicant is seeking an order for payment of the sum of £8782.72 in terms of s16 of the Housing (Scotland) Act 2014.

Case Management Discussion

3. A CMD was held on 11th March 2020 at 2pm at Caledonia House, Greenmarket, Dundee. The Applicant was represented by Ms Gillian McCluskey, solicitor, MacRoberts LLP. Ms McCluskey attended by telephone link. The Applicant was not present. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing. Ms McCluskey advised that the last contact from the Respondent to the Applicant was a few weeks prior to the hearing. The Respondent had informed the Applicant at that point that she would not be able to vacate the Property until she had received the eviction order as she would not be rehoused until she had been served with an eviction order. She has not made an offer for payment of the arrears. There is no outstanding Housing Benefit (or Universal Credit Housing Element) issues and no anticipated backdate. Ms McCluskey informed the Tribunal that the Respondent had been on Housing Benefit on two occasions but was not in receipt of it currently. She stated that any deposit would be offset against the arrears. Ms McCluskey was not aware of any issues of reasonableness that the Tribunal should consider.

Findings in Fact

4. The parties entered into a Short Assured Tenancy on 11th January 2017 with the commencement of the tenancy on 11th January 2017 for a 12 months period until 11th January 2018 and on a month to month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £800 per month and due in advance each month.
5. The Housing and Property Chamber received an Application on 16th January 2020.
6. The Respondents have persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £8782.72, beyond that which was sought in the application.
7. There are no outstanding Housing Benefit issues.
8. The arrears due to the Applicant amounts to £8782.72.

Reasons for Decision

9. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period April 2019 to February 2020 in which payments have been missed to amount to £8782.72 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent had persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £8782.72 against the Respondent.

Decision

10. The Applicant is entitled to for an order of payment of £8782.72 by the Respondent. The Order was granted against the Respondent.

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.

G Miller

Legal Member/Chair

11 MAR 2020

Date