



**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/20/0331**

**Re: Property at 6 Marble Avenue, Dreghorn, KA11 4BE (“the Property”)**

**Parties:**

**Miss Carole Clark, C/O Property Solutions Scotland, 38 Queen Street, Glasgow,  
G1 3DX (“the Applicant”)**

**Ms Amanda Greer, Ms Nicole Wright, 32 Dundonald Road, Dreghorn, Irvine,  
KA11 4DB; 32 Dundonald Road, Dreghorn, KA11 4DB (“the Respondent”)**

**Tribunal Member:**

**Karen Kirk (Legal Member)**

1. This Hearing was a Case Management Discussion (hereinafter referred to as a “CMD”) fixed in terms of Rule 70 and concerned an Application under application for civil proceedings under Section 16 of the Housing (Scotland) Act 2014. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision could be made. The hearing took place by teleconference due to the covid-19 pandemic.

**2. Attendance and Representation**

The Applicant was not present. Scott Runciman, solicitor, Gilson Gray, 29 Rutland Square, Edinburgh, EH1 2BW was instructed to represent the Applicant.

The Respondents were not present or represented

**3. Preliminary Matters.**

This case had previously called on 15<sup>th</sup> July 2020 and on 7<sup>th</sup> September 2020. On 7<sup>th</sup> September 2020 the Tribunal issues directions to the applicant to lodged vouching and further information in respect to the legal and debt costs incurred

but the Applicant. The Tribunal had now been provided with the information sought in the Direction and could proceed to hear the case.

#### **4. Discussion**

The Applicant's representative sought an order for payment in the sum of £2916.37 He explained further that rental arrears were £ 1,080.97 but that further charges and expenses were sought in terms of clause 1.5 of the lease between the parties. Namely he sought in addition to interest on the rent arrears the following in terms of the lease.

- I. Debt recovery charges - £820.24
- II. Tracing fees - £42
- III. Rubbish clearance - £444
- IV. Legal costs £201.96
- V. Legal costs - £612

Whilst the Tribunal noted the above costs previously there had been a lack of itemised information. This had now been provided since the last hearing and the Tribunal noted in terms of clause 1.5 of the lease between the parties this was recoverable. The Tribunal considered the overriding objective and the interests of justice was now met as the Tribunal had now be able to scrutinise the costs in fairness to the Respondent and in particular given the fact they were unrepresented. This had brought about a reduction in the sum sought due to further investigation by the Applicant. Interest on 4% was sought in terms of the lease on the rent arrears of £1080.97.

#### **Decision (in the absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted an order jointly and severally against the Respondents for payment of the sum of £1080.97 for rent arrears plus interest at 4% per anum from 21<sup>st</sup> October 2020 and the sum of £1835.40 for recoverable costs to the Applicant.**

#### **Reasons for Decision and Findings in Fact**

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Tribunal had continued the case on a number of occasions to ensure the fairness of the process to the Respondents who have always been absent.**
- 2. The Tribunal was satisfied that the relevant tenancy was in terms of the 1988 Act, a Short Assured Tenancy properly constituted and dated 7<sup>th</sup> August 2016. The Tribunal was further satisfied that the rent due**

was £425 per month and on the evidence before the Tribunal rental arrears had accrued in terms of this tenancy to the sum of £1080.97. Rental evidence had been lodged by the Applicant evidencing the rent due. The lease states that contractual interest of 4% is due on any late rent/rent arrears.

3. Full evidence, accounting and itemisation documents were lodged in response to Directions issues by the Tribunal which showed that the Applicants had encountered losses due as recoverable under clause 1.5 of the lease to the amount of £1835.40.
4. Accordingly in terms of Section 16 of the Housing (Scotland) Act 2014 the Tribunal granted a payment order against the Respondent for the sum of £1080.97 for rent arrears plus interest at 4% per annum from 21<sup>st</sup> October 2020 and £1835.40 for recoverable costs to the Applicant.

### 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.

Karen Kirk

21/10/2020

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Legal Member/Chair

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Date