



**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/19/0424

Re: Property at 4 Lawson Street, Kilmarnock, KA1 3JP (“the Property”)

The Parties:

**Mr James Colquhoun, C/O Murphy Scoular, 22/24 John Finnie Street,
Kilmarnock, KA1 1DD (“the Applicant”)**

**Mr Ronnie McLachlan, 35 Drumleyhill Drive, Hurlford, Kilmarnock (“the
Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £2125.30 to the Applicant in relation to rent arrears due by the Respondent.
2. The application contained:-
 - a copy of the Tenancy Agreement; and
 - a copy of the rental statement
3. The Applicants’ representative, Jennifer McGovern, from Messrs James Guthrie & Company LLP, attended on behalf of the Applicant. There was no appearance from the Respondent.

4. Notice of the Hearing together with a copy of the application and confirmation that the Respondent could make written representations in response to the application had been served on the Respondent on 11 March 2019. I was therefore satisfied that the Respondent had had formal notice of today's hearing and I was therefore prepared to proceed in his absence.

The Hearing

5. The Applicants' representative referred me to the tenancy agreement between the Applicant and the Respondent. This application related to unpaid rent due in terms of that agreement. The Respondent had made sporadic payments during the course of the lease, however these payments were not sufficient to cover the rental payment due and there were also some periods when no rent at all was paid.
6. The Applicant had attempted to get him to pay his rent and arrears; however those attempts were not successful. He had been served with Notice to Quit and had vacated the property on around 14 December 2018.
7. The Applicants' representative advised that the rent arrears were still outstanding as at today's date. There had been no further payments towards the rent or arrears by the Respondent since 5 November 2018. The Applicant had recovered the deposit and £265 of that had been put towards rent arrears.
8. The Applicant provided an updated rent account showing that on 14 December 2018 £265 had been deducted from the arrears. The rent arrears due were now therefore £1860.30.

Findings in Fact

9. The Tribunal found the following facts to be established:
 10. A tenancy agreement was entered into between the Applicant and the Respondent for the property and existed between the parties. It was entered into on 7 November 2017.
 11. The clause 2 of the tenancy agreement provided that monthly rent was £495 and further that monthly rent was due in advance.
 12. That the rental statement showed amounts due each week, amounts received, and rent outstanding.
 13. That the rental statement showed total rent arrears outstanding as at 14 December 2018.

14. That it appeared that there had been no payments towards the rent arrears other than those shown on the updated rent statement provided at today's case management discussion.

Reasons for Decision

15. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to actions arising following from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988.

16. As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this case.

17. There was no response or appearance from the Respondent but he had been notified of today's hearing.

18. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was submitted a rental statement showing the arrears due and additional information provided today by the Applicant's representative was that there had been no further payments towards the rent arrears other than £265 obtained from the recovery of the deposit and this sum had been put towards the rent arrears. The revised sum of £1,860.30 was still outstanding.

19. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the amended sum of £1,860.30.

Decision

I grant an order in favour of the Applicant for ONE THOUSAND EIGHT HUNDRED AND SIXTY POUNDS THIRTY PENCE (£1,860.30) STERLING 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.

Melanie Barbour

2.4.19

Legal Member/Chair

Date