

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 71(1) of the Private Housing
Tenancies (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/19/1266

**Re: Property at G01, 10 Kelly Street, Greenock Road, Greenock, PA16 8NF
("the Property")**

Parties:

**Mrs Teresa O'Hare, 20 Ardgowan Square, Greenock, PA16 8NH ("the
Applicant")**

**Ms Claire Campbell, G01, 10 Kelly Street, Greenock Road, Greenock, PA16 8NF
("the Respondent")**

Tribunal Members:

Jan Todd (Legal 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 of the sum of £1797 as sought
in the application be granted in respect of rent arrears due up to 24th April
2019.**

- **Background**

1. A Case Management Discussion (CMD) was held at 2 p.m. on 5th July 2019 at the Gamble Halls Gourock. Ms Theresa O'Hare, the Applicant appeared in person along with her legal representative Mr Kenneth Caldwell who was appearing as a local agent on behalf of the principal agent from Clarity Simplicity Ltd as unfortunately he had a sudden bereavement to attend to. The respondent did not attend, nor did anyone appear on her behalf. Mr Caldwell showed an e-mail indicating that the Respondent had sought advice from LSA solicitors and in that e-mail it was confirmed that the Respondent was not intending to appear nor to be represented. Mr Caldwell also advised

that the Respondent had indicated she was planning to move out of the Property in a few weeks.

2. As the CMD had been intimated on the Respondent by sheriff officer service on 4th June; that there had been no request for postponement and that the Applicant had been advised the Respondent did not intend to appear or be represented; the tribunal was satisfied it was appropriate to proceed in the absence of the Respondent.

The Case Management Discussion

3. There were no written representations received from the Respondents.
4. Mr Caldwell advised that the rent arrears had increased since the application had been made and the sum due was now £ 2,497. He submitted a new rent statement showing that no payment towards rent had been made since the application had been submitted resulting in further rent due for May and June.
5. He acknowledged that the application, which was dated 24th April, sought an order for payment of £1,797 being the sums then due and outstanding as per the rent arrears statement lodged with the application. He confirmed there are more than 3 months arrears due at the current time.
6. The Convener advised that as no notice of a change in the sum claimed has been served on the Respondent the Tribunal could not today consider an increase in the sum claimed and Ms O'Hare confirmed she was not seeking an increase but would be happy with an order for the sum originally claimed.
7. It was noted that if the Applicant wished to claim further arrears she could do so in a new application.
8. Mr Caldwell then moved for interest to be included in any sum for payment at the rate of 8% as per the application. The Convener advised that the Tribunal could order interest in terms of Rule 41 A(1) and this would be either at the rate stated in the tenancy agreement or ordered by the Tribunal, but there was no power to award 8% which is a judicial rate of interest. The Applicant confirmed interest is not specified in the Tenancy Agreement and so she was seeking interest as ordered by the Tribunal. The Tribunal settled on 3% of interest representing current borrowing rates for short term loans.

Findings in Fact

9. The parties entered into a lease of the Property which by a tenancy agreement that is dated and which commenced on 14th January 2018 and is continuing as the tenant is still in possession.
10. As a result, this is a Private Rented Tenancy despite being erroneously called a short assured tenancy.
11. The Rent due is £350 per calendar month payable in advance. The Applicant and the Respondent agreed that rent could be paid weekly by amounts of £88
12. The Applicant produced a statement of rent showing that since the commencement of the lease to the date of the CMD the respondent was due to pay £6300 and has paid £3803. At today's date the rent arrears are £2497, but at the date of the application the arrears were £1797 which is the sum claimed today.
13. This amounts to over 3 months' rent outstanding.

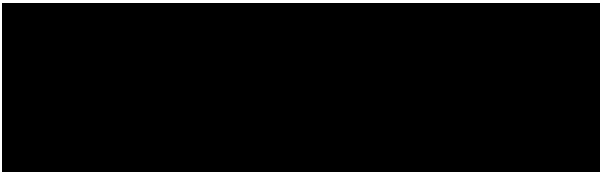
14. Interest has been claimed in the application and an appropriate amount of interest is found to be 3%.

• **Reasons for Decision**

15. The Tribunal accepted the verbal averments and written statement of rent arrears from the Applicant who was credible in her evidence of the Respondents having failed to pay the full rent due for the whole duration of the tenancy. There being no response to counter this from the Respondents and the Tribunal being satisfied that this represents the sums due up to the date of the application namely 24th April, grants an order for that sum.

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.



Legal Member/Chair

Date

5th July 2019