

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 (“2014 Act”)

Chamber Ref: FTS/HPC/CV/18/1510

Re: 9B Murray Street, Perth, PH1 5PJ (“the Property”)

Parties:

Hillcrest Enterprises Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Aaron Jorgensen, Ythan Ward, Rohallion Secure Care Clinic, Murray Royal Hospital, Muirhall Road, Perth, PH2 7BH (“the Respondent”)

Tribunal Members:

Pamela Woodman (Legal Member) and Leslie Forrest (Ordinary Member)

Present:

The hearing in relation to case reference FTS/HPC/CV/18/1510 took place at 2pm on Monday 7 January 2019 in The Inveralmond Business Centre, Auld Bond Road, Perth, PH1 3FX (“the Hearing”). Neither the Applicant nor the Respondent was present at the Hearing. However, the Applicant was represented by Hayley Swanson (“Applicant’s Representative”) of TC Young, Solicitors and the Respondent was represented by John McLaughlin (“Respondent’s Representative”) of Culley & McAlpine, Solicitors.

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 Tribunal under section 16 of the 2014 Act for civil proceedings in relation to matters associated with a tenancy under the Housing (Scotland) Act 1988 (“1988 Act”). The application was made in terms of the First-

tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“**HPC Rules**”) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended, (“**2017 Regulations**”). More specifically, the application was made in terms of rule 70 (*Application for civil proceedings in relation to an assured tenancy under the 1988 Act*) of the HPC Rules.

2. A notice of acceptance of the application was issued by the Tribunal dated 17 July 2018 under rule 9 of the HPC Rules (“**Notice of Acceptance**”), which confirmed that the application paperwork had been received by the Tribunal on 20 June 2018.
3. The Applicant was asked to submit an updated application form with updated address details for the Respondent, which was sent to the Tribunal on 12 November 2018.
4. The order sought from the Tribunal was an order for payment of £4,728.39 (four thousand seven hundred and twenty eight pounds and thirty nine pence sterling).
5. A hearing had been scheduled for an earlier date but had required to be postponed.
6. This decision arises out of the Hearing.

PROCEEDINGS

7. The Respondent’s Representative explained that the Respondent had been in and out of hospital since 2002 and was currently in hospital. The Respondent’s Representative had met with the Respondent in hospital on the morning of the Hearing.
8. The Respondent’s Representative:
 - a. Confirmed that the Respondent had previously been in receipt of housing benefit but was not currently in receipt of housing benefit or universal credit. He confirmed that this position was unlikely to change in the near future;
 - b. Submitted that it was not the Respondent’s fault that he had been unable to pay rent and that he was not aware of any record of the Respondent having worked but that, as noted above, the Respondent had been in and out of hospital since 2002;
 - c. Noted that the Respondent was not able to pay the arrears and there was not any family member who was likely to be able to pay the arrears of rent on behalf of the Respondent; and
 - d. Confirmed that the details set out in the rent statement provided (covering the period from 17 January 2013 to 9 November 2018) (“**Rent Statement**”) were accepted and that, as at 9 November 2018, the arrears were £4,728.39.

9. The Applicant's Representative noted that the Applicant had given the Respondent the opportunity to terminate the tenancy in or around May 2018 but that he had not wished to do so.
10. During a short adjournment, the Applicant's Representative confirmed her instructions with the Applicant and, upon returning, advised that she was instructed by the Applicant to continue to seek the order for payment, even if the likelihood of successful recovery of the full amount sought was not high.

REASONS FOR DECISION

11. The Respondent's Representative had confirmed that the Rent Statement was accurate. Accordingly, the Tribunal noted that, as at 9 November 2018, the Respondent had arrears (of rent and charges for services) of £4,728.39 which were due to the Applicant.

DECISION

12. The Tribunal decided that an order be granted against the Respondent for payment of the sum of £4,728.39 (four thousand seven hundred and twenty eight pounds and thirty nine pence sterling).
13. The order referred to in the preceding paragraph was intimated orally to the Applicant's Representative and the Respondent's Representative by the Chair during the Hearing.

Right of Appeal

In terms of Section 46 of the Tribunals (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.

P Woodman

Legal Member/Chair

7 January 2019

Date