



**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/19/1583

**Re: Property at 1/2 56 Cartside Street, Battlefield, Glasgow, G42 9TG (“the
Property”)**

Parties:

**Mr Mohammed Arshad, 38 Sandhead Terrace, Blantyre, Glasgow, G72 0JH
 (“the Applicant”)**

**Mr Alistair Smith, 12 Fairfax Road, Market Harborough, Leicester, LE16 9JT
 (“the Respondent”)**

Tribunal Members:

Petra Hennig-McFatridge (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 £1,810.69
should be granted.**

Background:

The Applicant is seeking an order in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (the Rules) for payment of rent arrears for the property. The Application was made on 3 July 2019. A copy tenancy agreement and a Tenancy Transaction Report were submitted with the application. These are referred to for their terms and held to be incorporated herein. The background for the application and submissions regarding the sums due are included in Part 5 of the application and are referred to for their terms and held to be incorporated herein.

The Tribunal fixed a Case Management Discussion (CMD) for 1 October 2019. The Applicant's representative Dawn Blackwood from Fineholm Letting Services Ltd attended. The Respondent did not attend.

The Respondent had been made aware of the date and time and venue by service of the notification and related documents through Sheriff Officers on 23 August 2019. No representations had been received.

The Respondents had not contacted the Tribunal prior to the CMD.

The Tribunal was satisfied that they had been appropriately notified of the application and the CMD.

The Case Management Discussion:

Ms Blackwood explained that there had been no contact from the Respondent since December 2018. Her office had contacted him on several occasions by email and text advising of the sums due but no payments had been received. In particular the Respondent had been notified that proceedings would be instigated in a letter dated 7.2.2019 to his current address, which again gave 7 days for payment of the outstanding sum. The change in the rent charged shown in the Tenancy Transaction Report arose from the annual increase by 3.5 % stated in Clause 3 of the Tenancy Agreement. The deposit had been released to the Applicant in December 2018 as shown on the Tenancy Transaction Report. She also submitted a new updated Tenancy Transaction Statement which shows a deduction from the original amount sought, which was £1,839.85 to £1,810.69 due to a credit arising for the rent adjustment taking into account that the Respondent had moved out on 29 October 2018 and thus crediting two days rent for October 2018.

The Respondent had not lodged a defence to the application and had made no representations.

Findings in Fact:

1. **The Applicant and the Respondent entered into a Tenancy Agreement on 29 January 2016 with an initial end date on 28 January 2017.**
2. **Tenancy ended on 29 October 2018.**
3. **In terms of Clause 2 of the Tenancy Agreement rent of £400 is due monthly in advance payable on the 1st day of the month.**
4. **The tenancy ended on 29 October 2018.**
5. **In August 2016, 2017 and 2018 the rent was increased by 3.5 % in terms of Clause 3 of the Tenancy Agreement.**
6. **A deposit of £400 was paid by the Respondent and released to the Applicant in December 2018 and applied towards the rent arrears.**
7. **At the end of the tenancy the shortfall of rent from the Respondent was £1,810.69 as shown in the updated Tenancy Transaction Report.**
8. **The Respondent had been advised of the outstanding arrears prior to proceedings being raised.**
9. **No payments were made.**

10. As at the date of the Case Management Discussion on 1 October 2019 the amount of £1,810.69 remains outstanding.

Reasons for the Decision:

The Tribunal considered that the facts of the case were not disputed. In terms of Rule 17 of the Rules of Procedure:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

(c) raising with parties any issues it requires to be addressed;

(d) discussing what witnesses, documents and other evidence will be required;

(e) discussing whether or not a hearing is required; and

(f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

However, in terms of Rule 18 of the Rules of Procedure:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,
a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

The documents lodged are referred to for their terms and held to be incorporated herein.

The Tribunal did not consider that there was any need for a hearing as the facts of the case were not disputed and the evidence was sufficient to make the relevant findings in fact to determine the case.

The Tribunal makes the decision on the basis of the documents lodged by the Applicant and the information given at the Case Management Discussion by Ms Blackwood.

There were no representations by the Respondent and thus there is no dispute about the facts of the case.

The rent arrears are not in dispute and amount to £1,810.69

There was no valid defence to the action. It is not in dispute that the sum is due by the Respondent to the Applicant.

The Applicant is entitled to payment of the sum of £1,810.69 from the Respondent.

Decision:

The Tribunal grants an order for payment of the sum of £1,810.69.

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.

Petra Hennig-McFatrige
Legal Member/Chair

1. 10. 19
Date