

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Procedure Regulations 2017 (“the Regulations”)**

**Chamber Ref: FTS/HPC/CV/18/1589**

**Re: Property at 13A Etrick Terrace, Johnstone, PA5 0NS (“the Property”)**

**Parties:**

**Mr Robert Gilhooly, Ms Linda McKay, Hallhill Lower Farm, Auchengreoch Road, Johnstone, PA5 0NS (“the Applicant”)**

**Mr Kenneth Doyle, Flat 4/5, 2251 Great Western Road, Glasgow, G15 6NA (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (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 by the Respondent in the sum of £1,600 should be made in favour of the Applicant.**

**Background**

1. By application received on 26 June 2018, the Applicant applied to the Tribunal for a payment order against the Respondent for unpaid rent in respect of the Property amounting to £1,650, plus the Applicant’s legal costs to date of £90. The Applicant stated that the Respondent owed more than 3 consecutive months of rent and had breached an agreement he had made with the Applicant to pay the rent arrears.
2. On 6 September 2018, a Legal Member of the Tribunal with delegated powers of the Tribunal President issued a Notice of Acceptance in respect of the application in terms of Rule 9 of the Regulations.

3. On 3 October 2018, a copy of the application and supporting documentation was served on the Respondent by Sheriff Officer and parties were notified of details of a Case Management Discussion to be held on 23 October 2018. No written representations were lodged by the Respondent in advance of the Case Management Discussion.
4. A Case Management Discussion took place on 23 October 2018 with a Legal Member of the Tribunal. Both parties were present. Following discussion, the Tribunal continued the matter to a further Case Management Discussion on 17 December 2018. The parties were issued with a letter that day confirming details of the further Case Management Discussion.

### **Case Management Discussion**

5. The further Case Management Discussion took place on 17 December 2018 at 10am at Glasgow Tribunals Centre. The applicants, Ms Linda McKay and Mr Robert Gilhooley were present. The Respondent was not in attendance. The Legal Member delayed the start of the Case Management Discussion slightly to allow for late arrival of the Respondent and the Tribunal checked that no communications had been received from the Respondent prior to the Case Management Discussion.
6. The Tribunal noted from the Notes on the Case Management Discussion on 23 October 2018 that the Respondent had admitted that the sum of £1,650 was due to the Applicant. He had explained that he had vacated the Property around 28 July 2018 and had been experiencing financial difficulties. However, he was due to start a new job and was also seeking to move to an unfurnished property which would be less expensive. He had indicated that he could make payments to the Applicant of £50 per month meantime, until his financial position improved. The Legal Member at the previous Case Management Discussion had accordingly continued the Case Management Discussion to allow a further assessment to be made of the Respondent's financial position then and to monitor the payments being made by the Respondent.
7. The Tribunal discussed the current position with the Applicant who advised that only one payment of £50 had been made by the Respondent since the previous Case Management Discussion, around 29 October 2018. The Respondent had not been in contact with the Applicant meantime and the Applicant was not aware of his current circumstances. The Applicant requested that an order be made today for £1,600, being the £1,650 claimed in the application and admitted as owing by the Respondent, less the £50 paid by the Respondent around 29 October 2018. The Tribunal noted that it had been explained to the Applicant at the previous Case Management Discussion that legal expenses would not be awarded in the circumstances of this case and reiterated this to the Applicant.

## **Findings in Fact**

8. The Applicant was the Landlord and the Respondent the Tenant of the Property by virtue of a Short Assured Tenancy dated 20 February 2016.
9. The Respondent occupied the Property from 20 February 2016 until around 28 July 2018.
10. The Respondent incurred rent arrears during that period amounting to £1,650.
11. Following a previous Case Management Discussion on 23 October 2018, the Respondent made a payment to the Applicant of £50. He has since failed to make any further payments and has not contacted the Applicant nor made any further payment proposals.
12. The Respondent owes the balance of £1,600 to the Applicant in unpaid rent.

## **Reasons for decision**

13. The Tribunal is satisfied from the application and supporting documentation and from the oral evidence given by the Applicant that the sum of £1,600 is due and resting owing by the Respondent to the Applicant in respect of unpaid rent incurred in respect of his tenancy of the Property. The Respondent had admitted the debt at the Case Management Discussion on 23 October 2018 and had not submitted any contradictory evidence or additional information to the Tribunal since.
14. The Tribunal concluded that the matter does not accordingly require to go to an evidential hearing and that an order for payment in the sum of £1,600 should be made.

## **Decision**

15. The Tribunal determined that an order for payment by the Respondent of the sum of £1,600 should be made in favour of 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.**

Nicola Weir

**Nicola Weir, Legal Member**

**Date: 17 December 2018**