



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2016**

Chamber Ref: FTS/HPC/CV/19/1649

Re: Property at Farraline, 2A Paton Street, Inverness, IV2 4SN (“the Property”)

Parties:

Mrs Claude Beirne, 2 High Shore, Macduff, AB44 1SL (“the Applicant”)

**Mr Richard Bowler, Ms Niamh Wilkinson, Farraline, 2A Paton Street, Inverness,
IV2 4SN (“the Respondents”)**

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment be granted in the sum of
£2,600 in favour of the Applicant**

Background

This is an application dated 28th May 2019 in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking a payment order in respect of unpaid rent in the sum of £2,600, and any other rent that becomes due while the Respondents continue to live in the Property. The parties entered into a tenancy agreement in respect of the Property that commenced on 29th November 2018. The rent was £650 per month. The Applicant states in the application that no rent was paid from February to May 2019.

On 23rd July 2019, the Respondent, Ms Wilkinson, contacted the Housing and Property Chamber stating that she was unable to attend the Case Management Discussion due to an emergency situation. She submitted a letter stating that the Applicant had made a claim to Universal Credit for payment of rent and that this was a fraudulent claim, given that the Respondents were to be evicted on or around 2nd August 2019..

Case Management Discussion

The Tribunal held a Case Management Discussion (“CMD”) on 24th July 2019 at the Mercure Hotel, Church Street, Inverness. The Applicant was in attendance. The Respondents were not in attendance. The Tribunal proceeded in terms of Rule 29 of the Rules as intimation of the CMD had been made upon the Respondents by Sheriff Officers on 20th June 2019. The Respondents had not made any written representations in relation to the sum sought by the Applicant.

The Applicant said that the outstanding rent arrears were now £3,900, and she was seeking an order for payment in that amount. She had received a copy of the letter submitted by the Respondent and said that she had contacted Housing Benefit some weeks ago. They informed her after some time that they no longer dealt with this and advised her to make enquiries with the Department for Work and Pensions regarding Universal Credit, which she did. No response has yet been received.

The Tribunal informed the Applicant that the sum sought could not be amended at the CMD, in the absence of the Respondents, in terms of Rule 13, and that any amendment had to be made in writing at least 7 days before the CMD. Accordingly, the Tribunal could only grant an order for payment in the sum of £2,600. The Applicant requested that an order be granted in the sum of £2,600.

Findings in Fact

1. In terms of the tenancy agreement between the parties, the Respondents agreed to pay rent of £650 per month to the Applicant.
2. The Respondents have failed to make payment of rent lawfully due to the Applicant.
3. The Applicant is entitled to recover the rent lawfully due in terms of the tenancy agreement.

Reasons for Decision

Rent lawfully due to the Applicant remains outstanding. The Applicant is entitled to recover the unpaid rent. The Tribunal considered the letter submitted by the Respondent and found the concerns stated therein not to be relevant in terms of the matter before the Tribunal.

Decision

The Tribunal granted an order for payment in the sum of £2,600 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.

Helen Forbes

Legal Member/Chair

26th July 2019

Date