



**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/19/3248**

**Re: Property at 2 Mansefield House, Annan Road, Gretna, DG16 5DQ (“the  
Property”)**

**Parties:**

**Dumfries & Galloway Homes Ltd, Huntingdon, 27 Moffat Road, Dumfries, DG1  
1NN (“the Applicant”)**

**Mr Martyn Thomas, 2 Mansefield House, Annan Road, Gretna, DG16 5DQ (“the  
Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the request to amend the application to increase the  
amount sought should be accepted and that the application, as amended,  
should be granted. The Tribunal made an Order for Payment by the Respondent  
to the Applicant of the sum of £7,549.72.**

**Background**

By application, received by the Tribunal on 10 October 2019, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £3,153.49.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties at a rent of £100.23 per week and a Rent Statement showing arrears as at 8 October 2019 of £3,153.49.

On 2 December 2019, the Respondent made written representations to the Tribunal. In the main, they related to his personal circumstances, but he also made reference to the fact that he was withholding rent, as the Applicant had failed to carry out repairs to the Property.

A Case Management Discussion scheduled for 10 December 2019 was continued to 31 January 2020, as the Applicant's solicitors confirmed that terms had been agreed between the Parties

Following the Case Management Discussion on 31 January 2020, at which the Applicant denied having received from the Respondent notification of any repairs issues, other than a disagreement as to whether a carpet had been satisfactorily cleaned after a fire, the Tribunal decided to refer the application to a Hearing and issued a Direction requiring the Respondent to produce a schedule of all outstanding repairs he relied on to justify his withholding rent, dates on which they were brought to the Applicant's attention and any action that had been taken by the Applicant. The Applicant provided the Tribunal with a Repairs Log and a Property Management Report in respect of the Property.

On 16 March 2020, the Applicant requested and was granted a postponement of the Hearing, scheduled for 31 March 2020, as the witness to be called was unwell. COVID-19 restrictions meant that the rescheduled Hearing could not take place until 31 July 2020. On 13 July 2020, the Applicant's solicitors advised the Tribunal that the Parties had entered into a repayment agreement and asked for the Hearing to be adjourned to a later date, pending monitoring of the agreement. The Tribunal agreed to that request. On 16 September 2020, the Applicant's solicitors told the Tribunal that the Respondent had defaulted on the repayment arrangement and requested the Tribunal to set a new date for the Hearing. Intimation of the new date for the Hearing, to be held by conference call, was sent to the Parties on 8 October 2020, including details of how to join the conference call.

On 27 October 2020, the Applicant's solicitors provided the Tribunal with an updated Rent Statement showing arrears as at that date of £7,549.72 and requested an amendment to the application to increase the sum sought to that amount. They also provided a copy of their letter to the Respondent of the same date, advising him that they intended to request the amendment.

### **The Hearing**

The Hearing took place by means of a telephone conference call on the morning of 11 November 2020. The Applicant was represented by Ms Claire Mullen of TC Young LLP, solicitors, Glasgow. The Respondent did not participate and was not represented. Ms Mullen stated that the arrears now stood at £7,750.18, but that, as notification of the further increase had not been made to the Respondent, she was asking the Tribunal to allow the amendment to the application and to issue an Order for Payment against the Respondent in the sum of £7,549.72.

### **Reasons for Decision**

The Tribunal noted that no representations had been received from or on behalf of the Respondent following notification to him by letter on 27 October 2020 of the Applicant's intention to request the amendment to the application. Accordingly, the Tribunal accepted the amendment request. The Tribunal also noted that the Respondent had failed to comply with the Tribunal's Direction to provide a schedule of all outstanding repairs that he relied on to justify his withholding rent.

The Tribunal was satisfied that the sum sought, as amended, had become lawfully due by the Respondent to the Applicant.

The decision of the Tribunal was unanimous.

**Decision**

The Tribunal determined that the request to amend the application to increase the amount sought should be accepted and that the application, as amended, should be granted. The Tribunal made an Order for Payment by the Respondent to the Applicant of the sum of £7,549.72.

**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.**



George Clark  
Legal Member/Chair

11 November 2020  
Date