



**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/20/1903

**Re: Property at 22 Cearn Fhlodaidh, Stornoway, Isle of Lewis, HS1 2YH (“the
Property”)**

Parties:

**Ms Samantha McConnachie, 8 Allt Ruadh, Stornoway, HS1 2UU (“the
Applicant”)**

**Mr James McEwan, 32 MacDonald Gardens, Leurbost, Isle of Lewis, HS2 9NR
 (“the Respondent”)**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) decided that the application should be determined without a
Hearing and made an Order for Payment by the Respondent to the Applicant of
the sum of £2,000. The request for interest on the principal sum was refused.**

Background

By application, received by the Tribunal on 9 September 2020, 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 £2,000. The Applicant also sought interest on the principal sum at the rate of 3.5% per annum or such other rate as the Tribunal should think appropriate.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing 1 February 2020 at a rent of £400 per month. The Applicant also provided the Tribunal with a Rent Statement showing arrears of £2,000 as at 1 June 2020 and a copy of a written statement by the Respondent, voluntarily renouncing the tenancy, dated 19 June 2020. In that statement, the Respondent acknowledged that he had not paid any rent and had not paid the deposit. He had not been living at the Property for over 3 months and had been offered a house by Hebridean Housing Partnership. He did not ask for time to pay the debt that he acknowledged was due.

On 24 September 2020, the Tribunal advised the Parties of the date and time of a Case Management Discussion and the Respondent was invited to make written

representations by 15 October 2020. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion took place by means of a telephone conference call on the morning of 29 October 2020. The Applicant was represented by Miss Kimberley Kane of Jackson Boyd LLP, solicitors, Glasgow. The Respondent did not participate and was not represented. The Applicant's representative asked the Tribunal to make the Order for Payment without a Hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations") provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing. The Tribunal was satisfied that the amount sought had become lawfully due by the Respondent to the Applicant.

The Tribunal considered the Applicant's request for interest on the sum due. Rule 41A of the 2017 Regulations, as amended, states that the Tribunal may include interest when making an Order for Payment at the rate either stated in the relevant tenancy agreement, or as ordered by the Tribunal. The Tribunal noted that the Private Residential Tenancy Agreement between the Parties did not make any provision for interest on arrears of rent. The Tribunal also noted that the Applicant had allowed the Respondent to take occupation of the Property without having paid either the first month's rent or the deposit. The Tribunal could see no justification for making an Order for Payment that included interest.

Decision

The Tribunal decided that the application should be determined without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £2,000. The request for interest on the principal sum was refused

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

29/10/20

Legal Member/Chair

Date