



**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/19/1998**

**Re: Property at 27 Gardiner Road, Prestonpans, EH32 9HF (“the Property”)**

**Parties:**

**Ms Debbie McKenzie, 72 Cameron Way, Prestonpans, EH32 9FH (“the Applicant”)**

**Ms Sarah Jayne Dick, 27 Gardiner Road, Prestonpans, EH32 9HF (“the Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**Background**

This is an application for a payment order dated 25<sup>th</sup> June 2019 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought in her application payment of arrears in rental payments of £7,440.00 in relation to the Property from the Respondent. The Applicant provided with her application copies of the short assured tenancy agreement and rent arrears statement.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 25<sup>th</sup> July 2019, and the Tribunal was provided with the execution of service.

### **Case Management Discussion**

A Case Management Discussion was held on 2<sup>nd</sup> September 2019 at George House, George Street, Edinburgh. The Applicant did not appear, but was represented by Mr Macleod, solicitor. The Respondent did not appear, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was invited by Mr Macleod with reference to the application and papers to grant an order for payment of the sum sought in the application, which is the sum that the rent arrears statement indicated is currently outstanding. The Respondent has made no further payments towards reducing the arrears since this application was made.

In response to an enquiry by the Tribunal, Mr Macleod confirmed that he had no evidence to confirm the legal basis upon which the Applicant asserts that the rental increased from October 2018 to £650.00 per month. This may have been an informal arrangement, but he accepted that there was no legal basis for any such increase.

Similarly, he accepted that the short assured tenancy agreement provided for a monthly rental of £599.00, and not £600.00 per month as the Applicant contended.

Mr Macleod was content to accept that the arrears shown in the rent arrears statement should be reduced by £1.00 per month up until October 2018, and thereafter by £51.00 per month, to reflect the rental due in terms of the tenancy agreement. He accepted that the reduced figure came to £7,022.00, and invited the Tribunal to grant an order for payment of this reduced amount.

### **Statement of Reasons**

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2)But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3)Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the copy rent arrears statement provided, and Mr Macleod’s submissions, and was satisfied that this disclosed an outstanding balance of rent arrears in the sum of £7,022.00.

Accordingly, the Tribunal shall make an order for payment of that sum.

### **Decision**

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £7,022.00.

### **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.**

N.Kinnear

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**Legal Member/Chair**

02/09/19  
\_\_\_\_\_  
**Date**