



**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/20/0485

**Re: Property at 1 Castlemains Crescent, Uddingston, South Lanarkshire, G71
7ND (“the Property”)**

Parties:

Mrs Helena Chi-May, 39 Birchfield Drive, Glasgow, G14 9FG (“the Applicant”)

**Miss Jade O'Donnell and Mr Anthony Goodings, both 88 Tom McCabe
Gardens, Hamilton, ML3 6LW (“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”) determined that the application should be decided without a
Hearing and made an Order for Payment by the Respondent to the Applicant of
the sum of £3,966.50.**

Background

By application, received by the Tribunal on 12 February 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 £2,800. The Applicant also sought interest from the date of the Tribunal’s decision until payment

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 17 April 2019 at a rent of £1,400 per month and a Rent Statement showing arrears of £2,800 at 11 February 2020.

A Case Management Discussion scheduled for 15 April 2020 was postponed due to the COVID-19 lockdown restrictions.

A Case Management Discussion scheduled for 19 August 2020 was postponed at the request of the Applicant, who advised the Tribunal that the Respondent had vacated the Property on 11 May 2020. The Applicant had received the tenancy deposit of £2,800 from SafeDeposits Scotland on 27 July 2020 and provided an

updated Rent Statement showing that, after deduction of the deposit, the arrears now stood at £3,966.50, with no money having been paid since 18 November 2019. The Applicant sought to amend the application to increase the amount sought. The Case Management Discussion was rescheduled for 23 September 2020.

On the evening of 22 September 2020, the Respondent, who had hitherto made no written representations to the Tribunal, emailed the Tribunal to request a Time to Pay Direction application form. The Respondent did not make any specific request for time to pay and advised that they would not be able to participate in the Case Management Discussion. As the request had been made at such a late stage, the Tribunal decided that the Case Management Discussion should proceed, but that the Applicant would be advised of the Respondent's request.

Case Management Discussion

A Case Management Discussion was held by way of a telephone conference call on the morning of 23 September 2020. The Applicant was represented by Kirstie Donnelly of Bannatyne Kirkwood France & Co, solicitors, Glasgow. The Respondent was not present or represented. The Applicant's representative told the Tribunal that no sums had been paid since the termination of the tenancy and that, in the absence of a specific offer to pay by instalments, her instructions were to seek the Order for Payment in the sum of £3,966.50. The Tribunal indicated that it would not be willing to include in its Order a provision for interest from the date of its Decision until the principal sum was paid and the Applicant's representative withdrew that element of the application.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 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 it required and that it would decide the application without a Hearing.

The Tribunal was satisfied that the sum sought, as amended to £3,966.50, was lawfully due by the Respondent to the Applicant. The Tribunal noted the last-minute request by the Respondent for a Time to Pay Direction application but was of the view that, as no offer of payment by instalments had been received and no sums had been paid towards the arrears since November 2019, this should not delay the decision to make an Order for Payment. The papers for the case had been served on the Respondent on 11 March 2020 and had included information regarding Time to Pay Direction applications. The Respondent had had many months to make such an application but had only requested an application form on the evening prior to the Case Management Discussion. If such an application was subsequently received, it would be copied to the Applicant in the usual manner and the Applicant could decide whether to delay enforcement of the Tribunal's Order.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £3,966.50.

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.

Legal Member/Chair

23 September 2020
Date