



**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/19/2130

Re: Property at 18 Main Street, Wishaw, ML2 7AF (“the Property”)

Parties:

**TCIB Residential LLP Trading As Newkeylets, 119 Main Street, Wishaw, ML2
7AU (“the Applicant”)**

**Mr Alex Smith, Aggregate Industries, Glensanda Quarry, Morvem, Oban, PA34
5QB (“the Respondent”)**

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment by the respondent of the sum
of £2561.99 should be granted in favour of the applicant.**

Background

1. An application was received on 9 July 2019 for a payment order brought in terms of rule 70 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).
2. The applicant was seeking payment of rent arrears of £2561.99 from the respondent in relation to the property, being the amount of arrears outstanding up until 9 July 2019.
3. The application included a copy of the tenancy agreement and a rent statement showing the rent outstanding up until 9 July 2019 to be £2561.99.

4. The tribunal instructed sheriff officers to serve notice of a case management discussion (CMD) scheduled for 25 September 2019, together with the application papers and guidance notes, on the respondent at the forwarding address provided by the applicant's representative. The sheriff officers were unable to serve the papers on the respondent at that address, which was the respondent's place of employment, due to difficulty in accessing the address, including health and safety issues. The CMD was therefore cancelled, and a new CMD arranged for 22 October 2019.
5. The papers for the rescheduled CMD were served by advertisement on the First-Tier Tribunal Housing and Property Chamber website between 12 September and 22 October 2019. An email was sent to the respondent by the tribunal administration on 12 September 2019 at the email address provided by the applicant's representative in its application form, notifying him that the papers were being served by advertisement.
6. No written representations or time to pay application were received from the respondent prior to the CMD.

The Case Management Discussion

7. A CMD was held on 22 October 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was represented by Mr Andy Smith, a partner with TCIB Residential LLP. The respondent was not present and was not represented.
8. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a case management discussion had been duly complied with. The tribunal had before it a certificate of advertisement stating that service by advertisement on the respondent was carried out on the First-Tier Tribunal Housing and Property Chamber website between 12 September and 22 October 2019. The tribunal was satisfied that the respondent had been cited to attend the CMD by advertisement in terms of rule 6A of the 2017 rules, and had therefore been given lawful notice of the proceedings.
9. The tribunal delayed the start of the discussion by 10 minutes, in case the respondent had been detained. He did not appear, however, and no telephone calls or messages had been received from him. The tribunal therefore proceeded with the CMD in the absence of the respondent.
10. Mr Smith referred the tribunal to the rent statement provided with the application. He confirmed that the respondent had left the property in July, and that the applicant had taken possession of it on 9 July 2019. He told the tribunal that the respondent had fallen into arrears when his housing benefit had stopped and he had started working in his present job. He said that he

had tried on a number of occasions to contact the respondent regarding the arrears, but that due to the location of his workplace, it was very difficult to get hold of him. He said that the respondent was fully aware of the arrears, and that he had been sent many text messages with details of the outstanding balance. He confirmed that no payments had been made by the respondent towards the outstanding balance since the application was made.

11. Mr Smith also confirmed that no tenancy deposit had been paid by the respondent, as stated at paragraph 1.7 of the tenancy agreement. He asked the tribunal to grant an order for £2561.99 in favour of the applicant.

Findings in Fact

12. The tribunal made the following findings in fact:

- The tribunal was satisfied that there was an assured tenancy in place between the parties.
- The applicant was the owner of the property, and was the landlord in terms of the tenancy agreement between the parties dated 2 October 2017.
- The rent due under the tenancy agreement was £400 per calendar month payable in advance.
- The respondent vacated the property on or around 9 July 2019.
- As at 9 July 2019, the respondent owed the applicant the sum of £2561.99 in rental payments.
- No tenancy deposit was payable by the respondent to the applicant.

Reasons for Decision

13. Having considered all the evidence before it, the tribunal was satisfied that the respondent owed the applicant an outstanding balance of £2561.99 in respect of rent arrears. The tribunal therefore decided to make an order for payment by the respondent to the applicant of that sum.

Decision

The tribunal grants an order for payment by the respondent to the applicant for the sum of £2561.99

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

22/10/19
Date