



**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/18/2200**

**Re: Property at 122A Bonnyton Road, Kilmarnock, Ayrshire, KA1 2PQ (“the  
Property”)**

**Parties:**

**Mrs Julie McIntosh, 5 Braehead Court, Kilmarnock, Ayrshire, KA3 7AB (“the  
Applicant”)**

**Mr Daniel Ross, 8 Onthank Drive, Kilmarnock, KA3 2AY (“the Respondent”)**

**Tribunal Members:**

**Joel Conn (Legal Member)**

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

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

**Background**

1. This is an application by the Applicant for civil proceedings in relation to an assured tenancy in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent dated 9 June 2017.
2. The application was lodged with the Tribunal on 23 August 2018. The application was accompanied with a rent statement showing purported arrears to the conclusion of the tenancy on 28 April 2018 of £1,820, being a shortfall of rent accumulating since 24 November 2017. Against this the Applicant had credited the £300 from the deposit and a further receipt of £100 of 12 May 2018. The rent under the lease was £170 per fortnight and the rent statements showed only four partial payments between 24

November 2017 and 2 March 2018, with no payments thereafter until the crediting of the deposit and the £100, both after termination of the Tenancy.

### **The Hearing**

1. On 30 November 2018, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at the Glasgow Tribunals Centre, I was addressed by the Applicant.
2. There was no appearance by the Respondent. The Applicant confirmed that no contact had been received from the Respondent in regard to the application.
3. The Applicant confirmed that the application was still insisted upon and she sought an order in the amount of £1,420.00, albeit that she was no longer of the view that the receipt of £100 on 12 May 2018 was actually from the Respondent. She conceded to give him credit for it within the application nonetheless. Further, the application papers referred to a further claim for £370 relating to gardening work that the Applicant stated she had paid the Respondent to carry out at the Property but which he had never done. As this was not within the orders sought in the application, the Applicant confirmed that she sought only sums in regard to rent arrears and no other claim.
4. The application sought no award of interest and the Applicant confirmed that neither interest nor expenses were being sought.
5. The Applicant confirmed that the Respondent’s address was now 8 Onthank Drive, Kilmarnock, KA3 2AY and this was the address at which service of papers regarding the CMD had been served. The records regarding the application were updated accordingly.

### **Findings in Fact**

6. On 9 June 2017, the Applicant let the Property to the Respondent by lease with a start date of 10 June 2017 and a duration of “six months from the start of the tenancy”, continuing “thereafter on a month to month basis until terminated (“the Tenancy”).
7. Under the Tenancy, the Respondent was to make payment of £170 per fortnight in rent in advance to the Applicant commencing on 10 June 2017.
8. A deposit of £300 was payable in regard to the Tenancy, which was paid by the Respondent to the Applicant.
9. The Applicant served the Respondent with a Notice to Quit on 8 February 2018, giving notice that he was to leave the Property by 11 April 2018.

10. The Respondent left the Property shortly after the date in the Notice to Quit, the Applicant seeking a final one week's rental on 28 April 2018.
11. As of 29 April 2018, there was unpaid rent of £1,820 due by the Respondent to the Applicant in terms of the Tenancy in respect of a shortfall in the rent due accumulated from a substantial shortfall of payments in rent from 24 November 2011 until 28 April 2018.
12. Post-termination of the Tenancy, the Applicant applied the deposit of £300 against the arrears.
13. Post-termination of the Tenancy, the Applicant received a payment of £100 on or about 12 May 2018 which she believed was made by the Respondent.
14. On or about 23 August 2018, the Applicant raised proceedings for an order for outstanding rent due in the sum of £1,420.
15. A Sheriff Officer acting on the instructions of the Tribunal served the application and intimation of the CMD upon the Respondent at his new address of 8 Onthank Drive, Kilmarnock on 10 November 2018.
16. The Respondent provided no evidence of payment of any part of the said unpaid rent due to 28 April 2018 of £1,820.
17. The lease provides no contractual rate for interest.
18. The outstanding balance of arrears, less deposit and post-termination payment applied, is £1,420.

### **Reasons for Decision**

19. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. I was satisfied, on the basis of the application and supporting papers, and the submissions provided by the Applicant at the CMD, that rent arrears of £1,820 were outstanding as at 28 April 2018. I was further satisfied with the Applicant's application of the deposit balance of £300 and the £100 payment that she had believed was made by the Respondent against the arrears balance. I was thus satisfied that the necessary level of evidence for such civil proceedings on the sum of £1,420 had been provided.
20. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the sum of £1,420 against the Respondent.

## Decision

21. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of the sum of £1,420.00 to the Applicant.

## 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.

J Conn

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Legal Member/Chair

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Date

30 November 2018