

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/19/2206**

**Re: Property at 68 Ferguson Court, Bucksburn, Aberdeen, AB21 9AG (“the Property”)**

**Parties:**

**Mr Donald Marshall, Mrs Pauline Marshall, 12 Main Street, Inver, Tain, Ross-shire, IV20 1SB (“the Applicant”)**

**Mr John Martin, 68 Ferguson Court, Bucksburn, Aberdeen, AB21 9AG (“the Respondent”)**

**Tribunal Members:**

**Petra Hennig McFatriidge (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 should be granted in favour of the Applicant.**

**Background**

The Applicants’ Representative Carly Stewart made an application for payment of outstanding rent for the property in terms of S 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) dated 12 July 2019. This was originally for the sum of £1,549.32.

A Case Management Discussion (CMD) was fixed for 8 October 2019 at 14.00 and both parties were notified of this. The service of the case papers and details of the CMD was carried out by Sheriff Officers on 30 August 2019. Prior to the CMD the Applicant’s Representatives, Aberdeen Considine, lodged an application to amend the sum sued for to £3,500 as per their email to the Tribunal dated 16 September 2019. This was allowed in terms of Rule 14A of The First – tier Tribunal for Scotland

Housing and Property Chamber Rules of Procedure 2017 (the Rules). The decision was intimated to the parties.

The Tribunal is thus satisfied that the Respondent had due notice of the application, the amendment and the notification of the CMD details. These included the statement that the tribunal may make a decision at a CMD.

No representations were received from the Respondent.

### **The Case Management Discussion:**

The Respondent did not attend, had made no representations and had not contacted the Tribunal. At the CMD the Applicants' Representative Ms Stewart attended on behalf of the Applicants and moved the amended application.

She explained that as of 1 October 2019 the sum outstanding was £3,500 as no payments had been received since March 2019 and thus rent of £500 per month for 7 months was now due and outstanding. The reason the updated rent schedule showed a lower amount was that this had been calculated on a week to week basis up to and including 3 September 2019 but no payments had been received since. The tenant had not returned the keys but had also not been in contact at all. The rent arrears were intimated to him to the email stated in the tenancy agreement and by letter to the property, on the last occasion on 16 September 2019. Visits had been carried out in June and July by staff from the property department to discuss matters but the Respondent was not at home at these times.

### **The tribunal considered the following documentary evidence:**

1. The application
2. Tenancy Agreement commencing 1 August 2018 for the property
3. Rent statement lodged with the application and updated rent statement to 3 September 2019

### **Findings in Fact**

1. The parties entered into a Private Residential Tenancy Agreement for the property on 1 August 2018
2. Rent of £500 per calendar month was payable.
3. From 1 April 2019 to the date of the CMD no payments were made
4. At the date of the CMD 8 October 2019 the sum of £3,500 remained due and outstanding

### **Reasons for decision**

The Tribunal considered that the facts of the case were not disputed. In terms of Rule 17 of the Rules of Procedure:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

- (a) in any place where a hearing may be held;
- (b) by videoconference; or
- (c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

- (a) identifying the issues to be resolved;
- (b) identifying what facts are agreed between the parties;
- (c) raising with parties any issues it requires to be addressed;
- (d) discussing what witnesses, documents and other evidence will be required;
- (e) discussing whether or not a hearing is required; and
- (f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

Power to determine the proceedings without a hearing

However, in terms of Rule 18 of the Rules of Procedure:

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

- (a) may make a decision without a hearing if the First-tier Tribunal considers that—
  - (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and
  - (ii) to do so will not be contrary to the interests of the parties; and
- (b) must make a decision without a hearing where the decision relates to—
  - (i) correcting; or
  - (ii) reviewing on a point of law, a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

The Respondent has not made any representations and did not attend the CMD. The facts of the case are not disputed. There was no opposition to the order being granted. The Tribunal did not consider that there was any need for a hearing as the facts of the case were not disputed and the evidence was sufficient to make the relevant findings in fact to determine the case.

The rental statement shows that no payments had been made since the payment in March 2019. The monthly rent, due on the first day of the month in advance in terms Clause 8 of the tenancy agreement, is £500 per month. The Tribunal was satisfied that no payments had been made after the period shown in the rent statement and that the Respondent had been advised of the updated sum sought of £3,500 for 7 months unpaid rent. The tenancy has not come to an end.

The Tribunal grants the order as rent lawfully due to the Applicants by the Respondent had not been paid.

## **Decision**

**The Tribunal grants an order against the Respondent for payment of the sum of £3,500 to the Applicants.**

## **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.**

**Petra Hennig-McFatrige**

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**Legal Member/Chair**

**8th October 2019**

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**Date**