



**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/18/2514

**Re: Property at 27 Whirlie Road, Crosslee, Johnstone, PA6 7LF (“the
Property”)**

Parties:

**Mr Andrew MacSorley, 7 Hill Rise, Twyford, Winchester, SO21 1QH (“the
Applicant”)**

**Ms Carol McLeod, 27 Whirlie Road, Crosslee, Johnstone, PA6 7LF (“the
Respondent”)**

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order is granted against the Respondent(s) for
payment of the undernoted sum to the Applicant(s):**

Sum of FIFTEEN THOUSAND POUNDS (£15,000) STERLING

An application was made by the Applicant under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. Said application sought payment against the Respondent in the sum of £16,375.11, being arrears of rent due by the Respondent to the Applicant.

A Case Management Discussion first took place on 6 December 2018. The Applicant was personally present. There was no appearance by or on behalf of the Respondent. The Case Management Discussion was adjourned to 25 January 2019 for the Applicant to lodge an updated rent statement.

The continued Case Management Discussion took place on 25 January 2019, by way of conference call. The Applicant was personally present. There was no appearance by or on behalf of the Respondent.

The Applicant sought payment of the outstanding arrears of rent due by the Respondent. The arrears of rent as at 1 December 2018, as per the updated rent statement lodged by the Applicant, stood at £17,553.68. The Tribunal queried why the running total of arrears varied between the original statement and the updated statement. The Applicant advised that he had identified an arithmetical error in the original statement, which he corrected in the updated statement.

The Tribunal noted that the arrears statement dated back to 1 October 2008. The Applicant raised his application to the Tribunal for payment on 16 September 2018. In terms of section 6 of the Prescription and Limitation (Scotland) Act 1973 any debt older than 5 years would have prescribed and the Applicant would not be entitled to pursue same. The Tribunal was not satisfied that there had been either a relevant claim by the Applicant or a relevant acknowledgment of the debt by the Respondent to interrupt the prescriptive period and enable the Applicant to seek payment of any arrears older than 5 years. The Applicant accepted this position.

The Tribunal was satisfied that:

1. The parties had entered into a tenancy agreement which commenced 1 October 2008 and was ongoing;
2. In terms of said tenancy agreement the Respondent was liable to pay a monthly rent of £500 the Applicant, and the Respondent had failed to do so;
3. As at 1 December 2018, the rent arrears due by the Respondent to the applicant were £17,553.68

The Tribunal considered that the debt accrued up to 1 September 2018, being £2,553.68, had prescribed in terms of section 6 of the Prescription and Limitation (Scotland) Act 1973. Accordingly, the total amount recoverable by the applicant was £15,000.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of FIFTEEN THOUSAND POUNDS (£15,000) STERLING

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.

Fiona Watson

Legal Member/Chair

Date

25/1/19