



**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/18/2975

**Re: Property at 53 Lennox Gardens, Linlithgow, West Lothian, EH49 7PZ (“the
Property”)**

Parties:

**Mr Ronald Shanks, Mrs Sharyn Shanks, 26 Bonhard Way, Bo'ness, West
Lothian, EH51 9RF; 20 Bonhard Way, Bo'ness, West Lothian, EH51 9RF (“the
Applicant”)**

**Ms Susan Gibson, 53 Lennox Gardens, Linlithgow, West Lothian, EH49 7PZ
 (“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 granted without a Hearing
and made an Order for Payment by the Respondent to the Applicant of the
sum of £3,440**

Background

By application, received by the Tribunal on 5 November 2018, the Applicant sought an Order for Payment by the Respondent of the sum of £1,290, increasing by £430 per month from 14 October 2018 until the date of Determination of the application. The Applicant also sought interest on the principal sum at the rate of 8% per annum and the expenses of bringing the action.

The application was accompanied by a copy of a Short Assured Tenancy Agreement commencing on 15 September 2017 at a rent of £430 per calendar month, payable monthly in advance on the 15th day of each month and a letter dated 28 July 2018, advising the Respondent that, following payments made by her, as at 15 July 2018, the arrears of rent were £1,290.

On 5 February 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 22 February 2019.

The Respondent made no written representations to the Tribunal.

The Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the afternoon of 17 February 2019.. The Applicant was present. The Respondent was not present or represented.

The Applicant advised the Tribunal that no payments of rent had been received since the date of the application and that the arrears currently stood at £3,440, up to and including the payment that had become lawfully due on 15 February 2019

The Applicant asked the Tribunal to make an Order for Payment without a hearing.

The Tribunal advised the Applicant that it would refuse the request for interest on the principal sum, as there was no provision in the Short Assured Tenancy Agreement for interest to be paid on unpaid rent. The Tribunal also advised that it would refuse the application for expenses.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”) states 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 and documentation that it required and that it could make a decision on the application without a hearing.

The Tribunal was satisfied that the sum sought in the application was due by the Respondent and that, at the date of the Case Management Discussion, that sum was £3,440.

The Short Assured Tenancy Agreement did not make provision for interest on unpaid rent and the Tribunal decided to refuse that element of the application.

Rule 40 of the 2017 Regulations states that the Tribunal may award expenses against a party but only where that party through unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense. The Tribunal was of the view that failure by the Respondent to provide written representations or to attend or be represented at the Case management Discussion did not amount to unreasonable behaviour by her in the conduct of the case and the Tribunal refused the applicant’s request for expenses.

Decision

The Tribunal determined that the application should be granted without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £3,440.

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.

G Clark

Legal Member/Chair

27 February 2019

Date

