



**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/19/3041

**Re: Property at 13 Kildonan Court, Newmains, Wishaw, ML2 9DL (“the
Property”)**

Parties:

**Peninsula Ventures Limited, c/o Etimon Ltd, Trident House, 175 Renfrew Road,
Paisley, PA3 4EF (“the Applicant”)
Hardy Macphail Solicitors, 5th Floor, Atlantic Chambers, 45 Hope Street,
Glasgow G2 6AE (“the Applicant’s Representative”); and**

**Mr Jordan Currie, 13 Kildonan Court, Newmains, Wishaw, ML2 9DL (“the
Respondent”)**

Tribunal Member:

G McWilliams- Legal Member

Decision in absence of the Respondent

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

Background

1. This is an Application for a payment order dated 27th September 2019 brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the 2017 Regulations”).
2. The Applicant sought an order for payment in respect of rent arrears of £2539.60 from the Respondent, and provided with their Application copies of

the parties' Short Assured Tenancy Agreement dated 25th August 2017 and a Statement of Outstanding Rent at 25th August 2019.

3. The Short Assured Tenancy Agreement had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988, and the procedures set out in that Act had been correctly followed and applied.
4. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 4th November 2019, and the Tribunal was provided with the Execution of Service.

Case Management Discussion

5. A Case Management Discussion ("CMD") was held on 5th December 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant was represented by Mr M. Ritchie of Hardy Macphail Solicitors, Glasgow. The Respondent did not appear and was not represented. The Applicant's representative stated that the Respondent had not paid any rent since 8th May 2019. He stated that the outstanding rent owing at the time of lodging of the Application, of £2539.60, had increased. He asked the Tribunal to make the order for payment sought in the Application.

Statement of Reasons

6. Section 16 of the Housing (Scotland) Act 2014 provides as follows:

"16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments."

7. Accordingly, the Tribunal now has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondent) under a Short Assured Tenancy such as this.

8. The Tribunal considered the terms of the Short Assured Tenancy agreement and the Rent Arrears Statement provided, and was satisfied that these papers

established that there were rent monies due to the Applicant, at the date of the Application, in the sum sought of £2539.60. Accordingly, the Tribunal made an order for payment of the sum sought of £2539.60.

9. The Tribunal included interest when making the order for payment, given the terms of clause 19.2 of the parties Short Assured Tenancy Agreement which provides for interest at the rate of 8% per annum to apply all payments due to the landlord Applicant, and also in terms of Rule 41A of the 2017 Regulations.
10. The Tribunal did not make any award of expenses. The Respondent had not engaged in the current proceedings and therefore the criteria in Rule 40 in the 2017 Regulations were not satisfied.

Decision

11. Accordingly, the Tribunal makes an order for payment by the Respondent to the Applicant of the sum sought of £2539.60, with interest at the rate of 8% per annum from today's date.

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 McWilliams

G McWilliams

5th December 2019

Legal Member

Date