



**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/19/3106**

**Re: Property at 11/4 Moat Drive, Edinburgh, EH14 1NU (“the Property”)**

**Parties:**

**Mrs Hayley Valente, 18F Morningside Road, Edinburgh, EH10 4DA (“the Applicant”)**

**Mr Gareth Jacobs, formerly residing at 11/4 Moat Drive, Edinburgh, EH14 1NU, and whose present whereabouts are unknown (“the Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal Member)**

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

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

**Background**

This is an application for a payment order dated 1<sup>st</sup> October 2019 and said to be brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal noted that this application relates to a short assured tenancy, and accordingly proceeds under Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act).

The Applicant sought in her application payment of arrears in rental payments of £2,721.12 due by the Respondent in respect of his tenancy of the Property until he vacated it on 18<sup>th</sup> September 2019.

The Applicant provided with her application copies of the short assured tenancy agreement, form AT5, notice to quit, section 33 notice, relevant executions of service and a rent arrears statement.

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.

The Respondent could not be validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal, as he could not be traced and his current whereabouts are unknown.

Service was validly effected by advertisement upon him in terms of Rule 6A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, and the Tribunal was provided with the Certificate of Service by advertisement.

### **Case Management Discussion**

A Case Management Discussion was held on 6<sup>th</sup> January 2020 at Riverside House, 502 Gorgie Road, Edinburgh. The Applicant did not appear, but was represented by Miss Beard, letting agent. The Respondent did not appear, nor was he represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was invited by Miss Beard with reference to the application and papers to grant an order for payment of the lesser sum of £2,661.12, which is the amount of rent arrears outstanding in terms of the rent arrears statement lodged with the application. She confirmed that no further payments have been received from the Respondent since this application was lodged.

### **Statement of Reasons**

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.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, rent arrears statement, and Miss Beard’s submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicant of £2,661.12.

Accordingly, the Tribunal shall make an order for payment of that sum.

### **Decision**

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £2,661.12.

### **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.**

Neil Kinnear  
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**Legal Member/Chair**

06/01/20  
\_\_\_\_\_  
**Date**