

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/19/3470

Property: 101 Albion Street, Coatbridge, ML5 3SD “the Property”

Parties:

Elsbeth Brankin, 11 The Fairways, Bothwell, Glasgow, G71 8PB (“the Applicant”)

Michael Brown, 101 Albion Street, Coatbridge, ML5 3SD “the Property (“the Respondent”)

Decision in absence of the Respondents

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) (“the Tribunal”) granted an order against the Respondent for payment of the sum of £1575.00 to the Applicant, under section 16 of the Housing (Scotland) Act 2016.

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 16 of the Housing (Scotland) Act 2014 for civil proceedings in relation to a an assured tenancy under the Housing (Scotland) Act. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant did not attend but was represented by John Gildea, John, Jackson and Dick solicitors.

The Respondent did not attend the Tribunal. No written representations had been received.

Preliminary Matters

The Applicant's representative confirmed that the rent statement in the Application remained accurate and the amount due was rent for 3 months before the property was sold for July, August and September 2019 at £525 per month. The Respondent was still in the property as the Applicant's representative explained that the Respondent's employer had bought the property and the Respondent continued to reside there. Accordingly the Respondent was served correctly and on 25th November 2019 by Sheriff Officer. There were no other preliminary matters arising.

Matters Raised

It was explained no rent had been paid the Respondent for the months of July, August and September 2019 and no payments had been received since the Application was lodged. Rent due was to the sum of £1575. The Respondents had been given notice of this sum in the Application together with the supporting documentation. The Applicant had lodged the application clearing setting out the sums sought.

The Applicant confirmed that a payment order for non payment to the amount of 1575 was sought. He made submissions seeking the Order.

There were no other matters arising.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings and had not challenged same by written representations or attendance.**
- 2. The Applicant sought an Order for non payment of rent to the amount of £1575.00**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.**
- 4. The Tribunal was satisfied that the relevant tenancy was in terms of the 1988 Act, a Short Assured Tenancy properly constituted and dated 31st October 2013. The Tribunal was further satisfied that the rent due was £525 per month and on the evidence before the Tribunal a rental payments had been missed in July, August and September 2019 under this said Tenancy.**
- 5. The Tribunal found the evidence given by the Applicant's representative credible.**

6. Accordingly in terms of Section 16 of the 2016 Act the Tribunal granted a payment order against the Respondent for the sum of £1575.

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.

Karen Kirk

Legal Member/Chair

Date

6/1/20