



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)**

Chamber Ref: FTS/HPC/CV/19/2218

Re: Property at 143 Arden Court, Hamilton, ML3 6TX (“the Property”)

Parties:

Mrs Sheena Kirkwood, 2 Allanshaw Gardens, Hamilton, ML3 8NU (“the Applicant”)

Mr Jamie Dignan, 1 Ritchie Street, Millport, Isle of Cumbrae, KA28 0AL (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment of **THREE THOUSAND FOUR HUNDRED AND FIFTY FIVE POUNDS (£3455) STERLING** against the Respondent. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right to appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. By way of an application received on 17 July 2019 the Applicant’s solicitor applied to the Tribunal for an order for payment of rent arrears of £3455 against the Respondent.
2. On 28 August 2019 the Tribunal accepted the application under Rule 9 of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
3. On 6 September 2019 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the Tribunal by 27

September 2019. The Tribunal also advised the Applicant and the Respondent on 6 September 2019 that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 14 October 2019.

4. The application and accompanying paperwork was not able to be served on the Respondent. A report from Kirk and Co Sheriff Officers dated 10 September 2019 advised that service had not been made on the Respondent as the Respondent no longer resided at the Property and despite enquiries they had been unable to ascertain his new address. Thereafter the Tribunal received an email of 26 September 2019 from the Applicant's agents who advised they wished the application to be served on the Respondent by way of advertisement.
5. In terms of Rule 6A of the Regulations the Tribunal advertised the application on the Tribunal's website from 14 October 2019 to 18 November 2019. A copy of the execution of service was prepared by the Tribunal administration certifying service of the application on the Respondent.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 18 November 2019 being satisfied that the Respondent had been validly served with the application and notification of the CMD to proceed on 18 November 2019. The Applicant was represented by Ms Sloey from Jackson Boyd solicitors. There was no appearance by or on behalf of the Respondent.
7. The Tribunal had before it a Short Assured Tenancy between the Applicant and the Respondent signed and dated by both parties 15 June 2015 and a copy rent statement showing how arrears had accrued.
8. Ms Sloey moved the Tribunal to grant an order for payment of £3455 and explained that the Respondent had removed from the Property on or about 21 May 2019. She referred to the rent statement lodged and the Tribunal noted that in terms of clause 5 of the Short Assured Tenancy Agreement the Respondent had agreed to pay the Applicant £350 per month by way of rent.

Findings in Fact

9. The Applicant and Respondent entered into a Short Assured Tenancy on 15 June 2015 in relation to the Property. In terms of clause 5, the Respondent agreed to pay rent of £350 per month.
10. The Respondent fell into rent arrears. Arrears were £3455 as of 21 May 2019 when he moved out of the Property.

Reasons for Decision

11. The Applicant's representative provided evidence in the form of the Short Assured Tenancy Agreement that the Respondent had agreed to pay £350

per month in rent. She also produced a rent statement to show how arrears had accrued to £3455. The Tribunal was satisfied on the basis of the tenancy agreement and the rent statement and the supporting oral submissions by Ms Sloey that the sum sought of £3455 was due to be paid by the Respondent to the Applicant in terms of the tenancy agreement.

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.

S.Evans

Legal/Member/Chair



18 November 2019.

Date