



**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/18/1619

Re: Property at Cortachy Mains, Cortachy, DD8 4LX (“the Property”)

Parties:

**Airlie Estates Heritage Trust, Airlie Estates Office, Cortachy By Kiriemuir,
Angus, DD8 4LY (“the Applicant”)**

Ms Mhairi Peattie, 4 Gibliston Cottages, Fife, KY9 1JS (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for payment is granted to the amount of
£393.**

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £411 in terms of s16 of the Housing (Scotland) Act 2014.
2. The arrears accrued when the Respondent was a tenant at the Property as a result of her employment with the Applicant. Two rent payments had been missed for March and July 2017. This amounted to £575 for March 2017 and £593 for July 2017, after the rent had been increased. The deposit had been recovered and 4 payments of £50 had been made.
3. This case had called as a CMD on four previous occasions.

- a. The first CMD was on 28th September 2018 and was adjourned due to the Chair requiring to recuse himself due to a conflict of interest. The Parties had reached a payment agreement.
- b. The second CMD was on 11th March 2019. It had been set a while after the previous CMD to allow the payment plan to be implemented. Neither party appeared so the case was dismissed.
- c. The third CMD was on 10th July 2019 was as a result of a minute for recall being lodged. The Applicant's local agent had incorrectly diarised the date. It was reasonable to recall the case to this CMD. The Tribunal was not satisfied that the amount claimed was clear. It was adjourned for clarification.
- d. The fourth CMD was due to sit at 11.30am on 23rd August 2019. The Respondents emailed the Housing and Property Chamber that morning to advise that the notification had only been received in the post that morning. The case was adjourned with a direction issued requiring the paper apart be amended with a clear calculation, an amendment to the original application showing how the interest was calculated and an amendment to show how much was now being sought.

Case Management Discussion

4. A CMD was held on 11th October 2019 at 10am at Caledonia House, Greenmarket, Dundee. The Applicant was represented by Mr Michael Piggot, solicitor from GFM Law who was the local agent for the Applicant's legal representative. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Applicant's solicitor submitted a late response to the direction issued at the last CMD to the Housing and Property Chamber on 10th October 2019. The submission stated that the sum sought was £411, the interest on this was no longer being sought and attached an new amended paper apart for the application which included a calculation of the sums due. The Respondent did not make representations in advance of the hearing. The amount due was discussed with Mr Piggot. It was unclear to the Tribunal why there was an inclusion of £18 as an adjustment for the increase in the rent for July 2017. The increased rent had already been included in the calculation. The Tribunal briefly adjourned to allow Mr Piggot to contact the Principal agent for clarification. On his return Mr Piggot informed the Tribunal that the amount for £18 was no longer being insisted upon and the sum sought was £393. The Tribunal was content that this calculation was correct and an order for this amount should be granted.

Findings in Fact

5. The Applicant has been able to recover some of the monies due from the return of the deposit amounting to £575. Four payments of £50 have also been made.
6. The arrears due to the Applicant amounts to £393.

Reasons for Decision

- 7. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a calculation for the arrears due. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent had not paid the two rent and was in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £393 against the Respondent.

Decision

- 8. The Applicant is entitled to for an order of payment of £393 plus interest of by the Respondent. The Order was granted against the Respondent.

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,

Gabrielle Miller

Legal Member/Chair

11 OCT 19

Date