

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/18/2932

Re: Property at Flat 1/2, 57 Provost Road, Dundee, DD3 8AG (“the Property”)

Parties:

Northern Housing Company Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Michael Falconer, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent to the Applicant of £7027.01 be made.

- **Background**

By application dated 23 October 2018 the Applicant applied to the Tribunal for a payment order against the respondent. The application stated that rent was owed in the sum of £4371.77 and a payment order for £2159.07 was being sought. This was later confirmed to be an error and the Applicant’s solicitor confirmed that the figure of £4371.77 was being sought. Rent had originally been due at the rate of £418.70 per calendar month but this had been increased to £442.84 per calendar month from 1 April 2018.

Along with the application, the Applicant’s solicitors lodged a copy of the tenancy agreement, a rent statement and a letter relating to the rent increase. There had been three previous attempts to hold a Case Management Discussion in this case on 9 January 2019, 20 February 2019 and 23 April 2019 but none were able to proceed due to problems identifying the current whereabouts of the Respondent in order to be able to serve details of the application and Case Management Discussions. A Notice was served in

terms of Rule 6A of the Chamber Rules between 24 May 2019 and 28 June 2019 advising the Respondent of details of the Case Management Discussion and asking him to contact the Tribunal Administration as soon as possible so that the appropriate paperwork could be issued to him. The website advised that a failure to respond would not delay the proceedings and that a decision could be made in his absence.

On 21 March 2019 the Applicant's solicitors requested an amendment to the sum sought in terms of Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The amendment was to increase the sum sought from £4371.77 to the sum of £7027.01 to take account of continuing rent arrears.

A Notice of Direction dated 16 April 2019 granting the amendment was advertised on the Tribunal Website in terms of Rule 6A.

The Respondent has not been in contact with the Tribunal.

- **The Case Management Discussion**
The Case Management Discussion took place today. The Applicant's solicitor, Kirsty Morrison of TC Young was in attendance. The Respondent did not attend. The Tribunal went through the paperwork and requested an up-to-date rent statement. This was lodged. The Tribunal was advised that no further payments had been received. Rent arrears continued to accrue but in the circumstances a payment order was being sought for the sum of £7027.01
- **Findings in Fact**
 1. The Applicant is owner and Landlord of the Property.
 2. The Respondent is the tenant of the Property by virtue of a short assured tenancy agreement dated 12 November 2015. In terms of the agreement he was due to pay £418.70 per calendar month increasing to £442.84 per calendar month from 1 April 2018.
 3. The sum of £7027.01 is owed to the Applicant by the Respondent.
- **Reasons for Decision**
The Respondent appears to no longer be living at the Property but has not handed back the keys or given any notice to the Applicant of his vacating the Property. The Applicant has required to make an application for repossession of the Property. Rent arrears have continued to accrue. The Tribunal is satisfied that the sum of £7027.01 is due to the Applicant and that an order for payment should be made.
- **Decision**
The Tribunal determines that an order for payment in favour of the Applicant in the sum of £7027.01 should be made.

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.

Ms Anne Mathie

Legal Member/Chair

28 June 2019

Date