

**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)**

**Chamber Ref: FTS/HPC/CV/19/0477**

**Re: Property at 69 Barkhill Road, Linlithgow, West Lothian, EH49 6BY (“the Property”)**

**Parties:**

**Mr John Ewart, 14 Barkhill Road, Linlithgow, West Lothian, EH49 6GZ (“the Applicant”)**

**Miss Tracy Gorman, 69 Barkhill Road, Linlithgow, West Lothian, EH49 6BY  
“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member)**

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

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

**BACKGROUND**

1. The Applicant is the proprietor of the property. The Respondent is the tenant;
2. There is no written Lease between the parties. A tenancy was created by way of an exchange of messages through mobile phone texts and social media and oral discussions between the Parties;
3. The tenancy is an assured tenancy in terms of the Housing (Scotland) Act 1988 (the “1988 Act”);
4. The tenancy commenced on 31 July 2016. The rent payable was £575 per calendar month payable on the 1<sup>st</sup> of every month commencing 1 August 2016;
5. The Applicant had previously submitted an application to the Tribunal seeking an order for recovery of possession of the Property. That application is proceeding under Tribunal case reference EV/18/2798. Immediately prior to this application for payment being concluded the Tribunal granted an order for recovery of possession of the Property;
6. A lengthy exchange of messages between the parties was produced to the Tribunal. It was clear that there were persistent difficulties with payment of rent. There was also an exchange of messages which indicated that the Respondent intended vacating the property and seeking alternative accommodation;

## THE CASE MANAGEMENT DISCUSSION

7. The Applicant attended the Case Management Discussion. There was no appearance by or on behalf of the Respondent. The Tribunal was in receipt of an Execution of Service by Sheriff Officers confirming that the place, date and time of the Hearing had been intimated to the Respondent, together with a copy of relevant case papers. In the circumstances, the Tribunal, being satisfied in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the "FTT Rules") that the Respondent had received reasonable Notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
8. The Applicant advised that the Respondent was still in occupation of the Property and was still in arrears of rent. She had, however, paid rent for the month of March 2019, and, indeed, January and February 2019 before that. Arrears from before then, however, remained outstanding. The amount presently outstanding is £2,137.20;
9. The Applicant moved to amend his written representations to vary the amount claimed from £2,750.00 to £2,137.20. The Tribunal, in accordance with Rule 13 of the FTT Rules, consented to this amendment;

## FINDINGS IN FACT

10. The Tribunal made the following findings in fact:-
  - a) That a tenancy had been created with effect from 31<sup>st</sup> July 2016;
  - b) Rent was payable at the rate of £575 per calendar month payable on the first day of each month;
  - c) The terms of the tenancy were set out in an exchange of messages which had been supplemented by some verbal agreement;
  - d) There was no written tenancy agreement;
  - e) As at 29 March 2019 the arrears of rent amounted to £2,137.20;

## DECISION

The Tribunal granted an order against the Respondent for payment of the sum of TWO THOUSAND ONE HUNDRED AND THIRTY SEVEN POUNDS AND TWENTY PENCE (£2,137.20) STERLING to the Applicant

### 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.

Virgil Crawford

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Legal Member/Chair

29 March 2019

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Date