



**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/19/0261

Re: Property at 320 (1F1) Leith Walk, Edinburgh, EH6 5BU (“the Property”)

Parties:

Ms Hirzah Mohsin, 11 Palmerston Road, London, E7 8BH (“the Applicant”)

**Mr Mohammed Ayaz, Mrs Humira Ayaz, 320 (1F1) Leith Walk, Edinburgh, EH6
5BU (“the Respondents”)**

Tribunal Members:

Neil Kinnear (Legal Member) and Linda Reid (Ordinary Member)

Decision

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

Background

This is an application for a payment order dated 23rd January 2019 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought in her application payment of arrears in rental payments of £40,000.00 in relation to the Property from the Respondents, and provided with her application copies of an unsigned short assured tenancy agreement and rent arrears statement.

The tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

A Case Management Discussion was held on 12th April 2019 at George House, 126 George Street, Edinburgh. The Applicant did not appear, but was represented by Miss Caldwell, solicitor. The First Respondent appeared, with his daughter as supporter. He also appeared on behalf of his wife, the Second Respondent.

The Tribunal identified a number of factual disputes between the parties, and set a Hearing.

Hearing

A Hearing was held on 27th June 2019 at George House, 126 George Street, Edinburgh. The Applicant did not appear, but was represented by Ms Mullen, solicitor. The Respondents did not appear, but were represented by Ms Shaw, solicitor.

Ms Mullen and Ms Shaw advised the Tribunal that the parties had now reached an agreement, and they tendered to the Tribunal a copy Minute of Agreement between the parties.

The parties are agreed that the Tribunal should make an order for payment by the Respondents to the Applicant of the sum of £6,000.00 in respect of arrears of rent, to the making of which order the Respondents consent.

The Tribunal noted an undertaking given in terms of the Minute of Agreement by the Applicant that she will not enforce the order for payment before 11th September 2019 and that she will not be entitled to instruct sheriff officers to serve a charge for payment on the Respondents before that date.

Statement of Reasons

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondents) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the copy rent arrears information provided and the submissions of Ms Mullen and Ms Shaw, and was satisfied that this disclosed an outstanding balance of rent arrears in the sum now sought of £6,000.00.

Accordingly, and of consent of the parties, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondents to the Applicant of the sum of £6,000.00.

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.



Legal Member/Chair

27/06/19

Date