



**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/20/1289

**Re: Property at 6 Kirkcubright Place, East Kilbride, Glasgow, G74 3LS (“the
Property”)**

Parties:

**Mr Eddie Hunter, c/o Your Move, 31A North Bridge Street, Bathgate, West
Lothian, EH48 4PJ (“the Applicant”)**

**Mr David Andrews, 6 Kirkcubright Place, East Kilbride, Glasgow, G74 3LS (“the
Respondent”)**

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application by the Applicant for civil proceedings in relation to an assured tenancy in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondent dated 12 October 2015.
2. The application was dated 12 June 2020 and lodged with the Tribunal shortly afterwards. The application was accompanied with a rent statement showing purported arrears to 12 May 2020 of £2,240, being a missed payment due for 12 April 2019 and then six missed rental payments of 12 December 2019 to 12 May 2020, each of £320 a month. The application further sought interest.

3. Prior to the case management discussion (“CMD”), the Applicant intimated upon on the Respondent by Recorded Delivery an intention to amend the application to seek £3,200 under Procedure Rule 14A. This appeared to have been done on 19 August 2020, with a copy of the amendment papers sent to the Tribunal shortly afterwards. The amendment was accompanied by an updated rent statement showing three further payments of 11 June to 11 August 2020 also having been missed.

The Hearing

4. On 2 September 2020, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber by remote telephone conference call, I was addressed by Kirstie Donnelly, solicitor of Ballantyne Kirkwood France & Co, for the Applicant.
5. There was no appearance by the Respondent (that is, no call was placed into the telephone conferencing facility by the conclusion of the call around 10:20). The Applicant’s agent stated that no contact had been received from the Respondent. The Applicant was concerned that the Respondent may have vacated the Property but recent service of the Recorded Delivery notice (in regard to the amendment) had been marked as signed for. The Applicant’s agent suggested that the Respondent may, at least, be at the Property on occasion. She added that keys had not been sent in and there had been no payment of rent since December 2019.
6. The clerk confirmed that no contact had been received by the Tribunal from the Respondent. In the circumstances, having waited until 10:07 to commence the CMD and, with no attempted contact from the Respondent, I was satisfied to proceed in the absence of the Respondent.
7. The Applicant’s agent confirmed that the application for an order, amended to £3,200, was still insisted upon. I considered the application under Procedure Rule 14A and granted same, amending the sum claimed to £3,200.
8. I asked the Applicant’s agent for submissions on the rate of interest. She confirmed that there was a contractual interest rate that would apply to the arrears from the date they arose but, on consideration, she sought interest at 8% from the date of any Decision.
9. No order for expenses was sought.

Findings in Fact

10. On 12 October 2015, the Applicant let the Property to the Respondent by lease with a start date of that date until 11 April 2016 to “continue from calendar month to calendar month until brought to an end by either party serving written notice” (“the Tenancy”).

11. Under the Tenancy, the Respondent was to make payment of £320.00 per month in rent in advance to the Applicant on the 12th day of each month.
12. As of 19 August 2020, there was unpaid rent of £3,200 due by the Respondent to the Applicant in terms of the Tenancy in respect of a missed payment due on 12 April 2019 along with nine missed rental payments due on 12 December 2019 to 12 August 2020 of £320 each.
13. On or about 12 June 2020, the Applicant raised proceedings for an order for outstanding rent due in the sum of £2,240.
14. On or about 19 August 2020, the Applicant competently intimated an amendment to seek an order for outstanding rent due in the sum of £3,200.
15. On 7 August 2020, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 2 September 2020 and the details for dialling into the conference call.
16. The Respondent provided no evidence of payment of any part of the said unpaid rent due to 19 August 2020 of £3,200.

Reasons for Decision

17. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. I was satisfied, on the basis of the application and supporting papers, and the submissions provided by the Applicant at the CMD, that rent arrears of £3,200 were outstanding as at 19 August 2020 and remained outstanding. I was thus satisfied that the necessary level of evidence for such civil proceedings on the sum of £3,200 had been provided.
18. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the sum of £3,200 against the Respondent along with judicial interest of 8% per annum on that sum from the date of this Decision onwards until payment.
19. I noted that the application was limited to the rent arrears due under the lease to 19 August 2020 and I assume that the Applicant reserves his position in regard to any further claim under the lease against the Respondent regarding any other potential breach of the lease or future arrears.

Decision

20. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of the sum of £3,200 to the Applicant with interest at 8% per annum from the date of this Decision until payment.

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.

2 September 2020

Legal Member/Chair

Date