



**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/19/0538**

**Re: Property at 17 Holly Cottage, Mid Row, Maryton, DD8 5PW (“the Property”)**

**Parties:**

**Mrs Wendy Roddy, Willow Tree, Rufford Way, Nottingham, NG2 6LS (“the Applicant”)**

**Ms Cheryl Hudson-Osborne, 6 Glenprosen Cottages, Mid Row, Maryton, DD8 5PW (“the Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal 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 15<sup>th</sup> February 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 payment of arrears in rental payments of £1,950.00 in relation to the Property from the Respondent, and provided with her application copy short assured tenancy agreement, and copy rent arrears statement.

The short assured 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 7<sup>th</sup> May 2019 at Dundee Carers Centre, Seagate House, 132-134 Seagate, Dundee. The Applicant did not appear, but was represented by Ms Sloey, solicitor. The Respondent appeared, and was not represented.

Ms Sloey advised the Tribunal that the Applicant had received payment of the deposit of £800.00, and accordingly the Applicant was seeking payment of the reduced sum of £1,150.

The Respondent accepted that rent was due, but thought that the correct amount was £500.00, as she had paid a further £650.00 to the Applicant's letting agent. The difficulty appeared to be that the letting agent had not received this payment, and the Respondent thought that there had been an error in the banking details she provided which had caused this.

The Tribunal continued the Case Management Discussion to allow that issue to be further investigated, and also to allow the Respondent to complete and return to the Tribunal a time to pay application.

### **Case Management Discussion**

A continued Case Management Discussion was held on 4<sup>th</sup> June 2019 at Dundee Carers Centre, Seagate House, 132-134 Seagate, Dundee. The Applicant again did not appear, but was represented by Mr MacRae, solicitor. The Respondent again appeared, and again was not represented.

The Respondent confirmed that she had made further investigation regarding the payment of £650.00 she had attempted to make to the Applicant's letting agent, and had found that the payment had been made to a different account which was not that of the letting agent in error.

The Respondent now accepted that she owed the Applicant rent arrears of £1,150.00, and asked for a time to pay direction to be made.

Mr MacRae confirmed that the Applicant did not oppose the granting of a time to pay direction in the terms sought by the Respondent of £30.00 per month, and invited the Tribunal with reference to the application and papers to grant an order for payment of the sum £1,150.00, with a time to pay direction.

### **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 Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement and the copy rent arrears calculation provided, and was satisfied that this disclosed an outstanding balance of rent arrears in the sum sought of £1,150.00.

Accordingly, the Tribunal shall make an order for payment of that sum with a time to pay direction.

### **Decision**

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £1,150.00 with a time to pay direction.

### **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.**

**N Kinnear**

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Legal Member/Chair

04/06/19

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Date