



**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/18/2525

**Re: Property at No 2 Appletree Cottages, Nenthorn, Kelso, TD5 7RY (“the
Property”)**

Parties:

**Mr Robin Thomson, Cakemuir Cottage, Nenthorn, Kelso, TD5 7RY (“the
Applicant”)**

**Mr Gordon Gibson, 12 Primrose Bank, Langlee, Galashiels, TD1 2LJ (“the
Respondent”)**

Tribunal Members:

Joel Conn (Legal Member)

Decision

**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 11 January 2017.
2. The application was dated 18 September 2018 and lodged with the Tribunal shortly thereafter. The application was accompanied with a rent statement showing purported arrears as at 15 September 2018 of £1,720, being a shortfall of rent which had accumulated over 2017 and 2018. The order sought in the application was for that sum of arrears with no reference to any further sums, costs, or interest.

10. Clause 19.2 of the Tenancy agreement permitted the Applicant to seek "interest at the annual rate of eight percent from the respective dates on which [unpaid sums became]... due until payment".
11. As of 15 September 2018, there was unpaid rent of £1,720 due by the Respondent to the Applicant in terms of the Tenancy in respect of a shortfall in the rent due, arising over a period of time since January 2017.
12. On 18 September 2018, the Applicant raised proceedings for an order for outstanding rent due in the sum of £1,720.
13. As at 12 March 2019, in consideration of the arrears subject to payments to account and further interest and other sums due under the lease, there was a debt due under the lease of at least £1,720 due by the Respondent to the Applicant, which amount of £1,720 the Respondent conceded.

Reasons for Decision

14. 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, and the concessions by the Respondent, that rent arrears of around £1,720 were still outstanding as at 13 March 2019 and that the Applicant had a stateable case to seek further sums. I noted the Applicant was willing to compromise further contractual claims in return for an order by consent of £1,720 to cover the arrears, potential interest, and potential further damages claims. I was satisfied that the necessary level of evidence for such civil proceedings on the sum of £1,720 had been provided, at least in consideration of the parties' concessions and consents.
15. 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 £1,720 against the Respondent.
16. In consideration of the parties' discussions and agreement, I was further satisfied to make a Time to Pay Direction in terms of section 1(1) of the Debtors (Scotland) Act 1987 for this amount to be payable by instalments of £100 per month commencing within 7 days of intimation of the Order accompanying this Decision.

Decision

17. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of the sum of £1,720 to the Applicant with a Time to Pay Direction in terms of section 1(1) of the Debtors (Scotland) Act 1987 for this amount to be payable by instalments of £100 per month.

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.

J Conn

~~Legal~~/Member/Chair

Date

12 March 2019