

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) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/18/0203

Re: Property at 2 Burnieboozle Place, Aberdeen, AB15 8NL ("the Property")

Parties:

Mr Calum Massey, 5 Hilltop Avenue, Westhill, AB31 6PH ("the Applicant")

Ms Arlene Chisholm, 2 Burnieboozle Place, Aberdeen, AB15 8NL ("the Respondent")

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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 2018 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 £6,900.00 in relation to the Property from the Respondent, and provided with its application copies of the short assured tenancy agreement and a copy rent 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.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 23rd March 2018, and I

was provided with the executions of service. She is accordingly deemed to be aware of the Case Management Discussion.

The Applicant by e-mail to the Tribunal dated 26th March amended the sum sought in the application to the sum of £10,350 in terms of Rule 13 (Amendment to a party's written representations) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended. The sum of £10,350.00 comprised the original sum sought in the application of £6,900.00, plus a further sum of £3,450 representing a further 3 months of unpaid rental which had accrued from the date of the application to the date of the Case Management Discussion.

The Tribunal intimated the amendment to the Respondent by both e-mail and letter sent by first class post on 17th April 2018. The Respondent replied on 18th April to the Tribunal's e-mail of the 17th April, and I am therefore satisfied that she received intimation of the Applicant's amendment prior to the Case Management Discussion.

Case Management Discussion

A Case Management Discussion was held on 19th April 2018 at Ferryhill Community Centre, Albury Road, Aberdeen. The Applicant did not appear in person, but was represented by Mr Noor, solicitor, accompanied by Ms Wilson and Ms Clark of the applicant's letting agents.

The Respondent did not appear in person, nor was she represented. She had indicated in e-mail correspondence with the Tribunal that she did not intend to appear, and did not respond to an offer from the Tribunal to consider any application by her to (1) postpone the Case Management Discussion, (2) to advise of a representative to appear on her behalf, or (3) to conduct the Case Management Discussion by conference call.

I was invited by Mr Noor with reference to the application and papers to grant the order for payment sought. The Applicant produced with its application a rent account statement disclosing rent due and payments made by the Respondent to the date of the application, and at the Case Management Discussion a further updated rent account statement to 19/04/18 which disclosed that rent arrears as at the date of the Case Management Discussion amounted to £10,350.00.

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 statements provided, and was satisfied that this disclosed an outstanding balance of rent arrears at the date of the Case Management Discussion in the sum sought of £10,350.00. Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, I have will make an order for payment by the Respondent to the Applicant of the sum of £10,350.00 as sought.

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.

Neil Kinnear

Legal Member/Chair

19/04/18

Date