

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/18/0128

Re: Property at Flat 1/2, 5 Lawn Street, Paisley, PA1 1HA (“the Property”)

Parties:

**Link Housing Association Ltd T/A Link2Let, Link House, 2c New Mart Road,
Edinburgh, EH14 1RL (“the Applicant”)**

**Mr Steven Gray, Ms Danya Gray, Flat 1/2, 5 Lawn Street, Paisley, PA1 1HA (“the
Respondent”)**

Tribunal Members:

Eleanor Mannion (Legal Member) and Leslie Forrest (Ordinary 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 15th 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 in relation to the Property from the Respondent, and provided with their 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 Respondents have been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 19th

March 2018, and the Tribunal was provided with the executions of service. They are accordingly deemed to be aware of the Hearing.

- The Hearing
- The hearing took place in the absence of the Respondents. The Applicants were represented by Ms Keri Preece, Solicitor from Harper McLeod LLP. Gillian Halas, Link2Let Officer was also in attendance on behalf of the Applicants and available to answer any questions the Tribunal might have. Ms Preece confirmed that the Landlord in question was Link Housing Association Limited t/a Link2Let having a registered address at 2c New Mart Road, Edinburgh, EH14 1RL. The Tribunal queried the name and address for the Landlord as contained in the Section 11 notice as this appeared to differ. Ms Preece confirmed that the registered address of the Landlord is 2c New Mart Road, Edinburgh, EH14 1RL, consistent with the short assured tenancy agreement and the other notices lodged. She advised that the address Watling House, Callendar Building Park, Callendar Road, Falkirk, FK1 1XR as set out in the Section 11 notice is the correspondence address for the company. This is consistent with both the witnessing of the short assured tenancy and noted email correspondence as between the Applicant and Respondents.
- Ms Preece presented the rent account and explained the various entries thereon. This account covered the entire period from 1st June 2015 to 3rd January 2018. The monthly rent was initially set at £421.07. This increased to £427.13 on 1st April 2016 and again to £438.20 on the 1st April 2017. Ms Halas confirmed to the Tribunal that on each occasion when the rent was increased, one months' written notice was provided to the Respondents consistent with Clause 4.2 of the Short Assured Tenancy. Ms Preece confirmed that at various points the Respondents fell into arrears in their rent. At the 1st December 2017, the rent was in arrears to the amount of £2,235.31.
- The Applicant is seeking total payment of rent to the 1st April 2018 which amounts to £2,673.51. They advised that the tenancy deposit of £421.07 will be retained towards the arrears and so are seeking an order in the sum of £2,252.44.
- Before coming to their decision, the Tribunal took a short adjournment to check with the administration as to whether any contact had been made by the Respondents to ensure that the overriding objective of the Tribunal rules was complied with. No contact having been made, either on today's date or during the process itself, the Tribunal was satisfied that it had all available evidence before it to come to a decision.

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 entire copy rent statement provided at the Hearing, and together with submissions of the Applicant thereon. The Tribunal was satisfied that the net sum of rent arrears at the date of this hearing is £2,252.44. Accordingly, 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 £2,252.44, as sought in this application.

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.

E Mannion

Legal Member/Chair

11/4/18

Date