

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**Decision on Case Management Discussion of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to an Assured Tenancy under Rule 70 of the Procedure Rules.**

**Chamber Ref: FTS/HPC/CV/19/0173**

**Re: 3 Gallowgate Lane, Largs, KA30 8BE ("the Property")**

**Parties:**

**Acre Lettings Limited, 6 Stanlane Place, Largs, KA30 8DA ("the Applicant")**

**Andrea Bell, Acre Lettings, 6 Stanlane Place, Largs, KA30 8DA ('The Applicant's Representative')**

**Jacqueline Gilchrist, 47 Flatt Road, Largs, KA30 9EB ("the Respondent")**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")**

**Tribunal Member: Jacqui Taylor (Legal Member) and Gerard Darroch (Housing Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment would be issued requiring the Respondent to pay the Applicants the sum of £1032.19.**

**Background**

**1. The Applicants submitted an application to the Tribunal for payment of arrears of rent in the sum of £2087.33 being the sum outstanding as at 17<sup>th</sup> January 2019.**

**2. Documents lodged with the Tribunal.**

**Documents lodged with the Tribunal by the Applicant were:**

**2.1 A copy of the Tenancy Agreement.**

**2.2 A copy of a rent statement dated which showed that the outstanding rent as at July 2014 amounts to £2087.33. The arrears related to the period April 2013 to July 2014.**

### **3. Case Management Discussion**

This case called for a Case management Discussion (CMD) at 10am on 18<sup>th</sup> March 2019 at Ardrossan Civic Centre, Glasgow Street, Ardrossan, KA22 8EU.

The Applicants were not present but their representative Andrea Bell of Acre Lettings was present.

The Respondent was present and accompanied by her supporter Kerri Evans.

No written responses had been received from the Respondent.

### **4. The Tribunal identified with the Applicants' representative and the Respondent the following agreed facts:**

4.1 The Applicants are the Landlords of the Property.

4.2 The Respondent was Tenant of the Property in terms of the Short Assured Tenancy between the parties.

4.3 The term of the Tenancy was from 1<sup>st</sup> October 2012 to 1<sup>st</sup> October 2013, albeit that the Tenant first moved into the Property in 2004.

4.4 The Tenant vacated the Property in April 2014 but the tenancy terminated on 31<sup>st</sup> July 2014.

4.5 The rent due in terms of the tenancy was £500 per month.

### **5. Requirements of Section 70 of the Procedure Rules.**

5.1 In connection with the requirements of section 70 the Tribunal confirmed that the application correctly detailed the requirements of section 70(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name and address of the Applicant.
- (ii) the name and address of the Respondent.
- (iii) the reason for making the application.

5.2 The Tribunal also confirmed that the application had been accompanied by the documents specified in **Section 70(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statement of rent arrears.

### **6. CMD.**

As a preliminary matter the legal member of the Tribunal advised the parties that (i) in terms of the Prescription and Limitation (Scotland) Act 1973 an obligation to pay rent prescribes and is extinguished if a relevant court action has not commenced within five years of the debts constitution and (ii) The Respondent is entitled to apply

for a Time to Pay Direction if the debt is not disputed. The Respondent was given a Time to Pay Direction application form and the Tribunal's guidance notes. The Case Management Discussion was adjourned for 15 minutes to enable the parties to consider these matters.

When the Case Management Discussion reconvened Andrea Bell advised that she wished to amend the application to state that the sum sought was £1032.19 being the rent due from 18<sup>th</sup> March 2014. She was asked if she wished to have an opportunity to take advise on this amendment but she advised that this was not necessary. Jacqueline Gilchrist advised that she consented to the application being amended to state that the order sought was for payment of arrears amounting to £1032.19.

The Legal chairperson of the Tribunal explained that in terms of Tribunal Rule 14A a party may request an amendment to the sum claimed on giving the Tribunal and the other party at least 14 days prior notice. However as the parties agree to the said amendment to the sum claimed and in light of the overriding objectives contained in Tribunal Rule 2 she consented to the said amendment to the effect that the order sought was for payment of arrears amounting to £1032.19.

Thereafter Jacqueline Gilchrist explained that she did not wish to apply for a time to pay direction. She also explained that she does not consider that the rent arrears are due to the Landlord due to the condition of the Property. She wishes an opportunity to call her witness Tammy McDonald of 3a Gallowgate Lane, Largs who will give evidence as to the condition of the Property and she also wishes to provide the Tribunal with photographs to evidence the condition of the Property.

The Case Management Discussion was adjourned in terms of Rule 28(1) of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended, to a Hearing at 10am on 2<sup>nd</sup> May 2019 at Ardrossan Civic Centre, Glasgow Street, Ardrossan, KA22 8EU. The parties were given details of the hearing prior to them leaving the venue by the Tribunal Clerk.

## **7. Hearing**

This case called for a hearing at 10am on 2<sup>nd</sup> May 2019 at Ardrossan Civic Centre, Glasgow Street, Ardrossan, KA22 8EU.

The Applicants were represented by their Director John Corrigan and their employee Andrea Bell who were both present.

The Respondent was not present. Her ex partner had telephoned the Tribunal Administration on 1<sup>st</sup> May 2019 advising that she was unable to attend due to a hospital appointment. The Tribunal case worker asked him to email in to confirm but he refused adding that 'it can just go ahead'.

The Tribunal were satisfied that the Respondent had received notification of the hearing as she had been provided with the details at the CMD and also in the written decision which had been issued following the CMD. Therefore as permitted in terms of Tribunal Rule 29 the Tribunal proceeded with the hearing despite the absence of the Respondent.

No written responses had been received from the Respondent and no photographs had been lodged as productions.

## **8. Decision**

**8.1** The Tribunal accepted as correct the evidence of the rent statement produced which showed the outstanding rent to be £1032.19 a copy of which had been provided to the Respondent.

**8.2** The Tribunal determined that the outstanding rent due by the Respondent amounted to £1032.19 and accordingly they issued an Order for Payment in this sum.

## **9. 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.**

Jacqueline Taylor

..... Legal Member

**2<sup>nd</sup> May 2019**