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**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/19/0971**

**Re: Property at Flat 0/1, 33 Ferguslie Walk, Paisley, PA1 2RQ (“the Property”)**

**Parties:**

**Mrs Philomena Ferguson, 9 Birch Grove, Houston, PA6 7DF (“the Applicant”)**

**Miss Shannon Lorraine Walker, 3/1, 5 Blythwood Drive, Paisley, PA3 3ES  
 (“the Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment should be granted in the sum of £676.15 with interest at the rate of eight per centum per annum from the date of this decision.**

- Background

By application dated 9 March 2019, the Applicant applied to the First-tier Tribunal under Rule 70. The application was accompanied by a copy of a tenancy agreement dated 22 September 2017, copy rent statement detailing arrears as well as copy bank statements.

- The Case Management Discussion

The Applicant was represented by her husband a Mr John Ferguson. There was no appearance by or on behalf of the Respondent. A copy of this application was served on the Respondent by sheriff officers on 23 April 2019. No written responses were made by the Respondent.

Mr Ferguson confirmed that the Applicant was seeking to claim:

- 1) Rent arrears amounting to £800;
- 2) Interest at the rate of 8% per annum; and
- 3) Costs for raising the application.

Mr Ferguson confirmed that the Applicant had recovered possession of the Property on 11 January 2019 following the service of notices on the Respondent. That the last rent paid by the Respondent for the rent period expiring on 21 October 2018.

Following the Respondent vacating the property the Applicant recovered the total value of the security deposit paid by the Respondent of £400 and applied that to the arrears.

In terms of the claim for interest, Mr Ferguson pointed to clause 3 of the said tenancy agreement that provided for the payment of interest on any unpaid rent at the rate of 8% per annum.

The claim for costs was based on the costs incurred in raising the said application and the potential anticipated enforcement costs.

- Findings in Fact

1. The tenancy between the Applicant and the Respondent was constituted by the tenancy agreement dated 22 September 2017.
2. That the Respondent was due to pay rent at the rate of £400 per calendar month.
3. That by 11 January 2019 the Applicant had recovered possession of the Property.
4. That by 11 January 2019 the rent arrears were £676.15.
5. That in terms of clause 3 of the said tenancy agreement the rate of eight per centum per annum should be applied to that sum from the date of this decision.

- Reasons for Decision

The Respondent did not appear at the hearing. The Tribunal accepted the paperwork as produced on behalf of the Applicant. Whilst the Applicant had sought the sum of £800 by way of rent arrears, it was conceded by Mr Ferguson that the Applicant had recovered possession of the Property on 11 January 2019. As such, the award by way of rent arrears was restricted to an award up to that date. Thereafter the deposit of £400 falls to be deducted giving £676.15.

The said tenancy agreement contains a provision for contractual interest in the event of non-payment of rent. This is at the rate of 8% per annum. Whilst the Applicant sought an award of interest from "December 2018", in terms of Rule 41A, the Tribunal can only make such an award from the date of the decision.

In relation to costs, there was no basis for making an award of costs as requested by the Applicant. The Tribunal's ability to award costs is limited to those set out in Rule 40. No such circumstances exist in the present case.

- Decision

An order for payment is granted against the Respondent in the sum of £676.15 with interest thereon at the rate of 8% per annum from the date of this decision.

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### 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.

Rory Cowan

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Legal Member/Chair

20 May 2019

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Date