

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/18/1131

Re: Property at Apartment 1, 172 Market Street, Aberdeen, AB11 5PP (“the Property”)

Parties:

Lemuria Enterprises, 12 Rubislaw Terrace Lane, Aberdeen, AB10 1XF (“the Applicant”)

Mr Donald Chukwuebuka Ajaegbu, Apartment 1, 172 Market Street, Aberdeen, AB11 5PP (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatridge (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Procedural Background:

The Applicants are seeking an order for payment of rent arrears for the property. An application in terms of Rule 70 (Civil Proceedings) was made on 2 May 2018 and the sum outstanding stated as at the time of the application was £2,000, based on a monthly rent of £400.

The Applicants lodged the Short Assured Tenancy Agreement dated 30 November 2017 and a Rent Statement showing as the outstanding amount the sum of £2,000, as well as a copy of various emails between the Applicant’s representative and the Respondent regarding rent arrears accumulating and various promises that these would be cleared. The emails are referred to for their terms and held to be incorporated herein.

The Case Management Discussion was set to be heard together with the application under FTS/HPC/CV/1667, which was an application for recovery of possession, on 25 September 2018.

Anne Marie Morrice from DPG Investment Management Ltd, the Applicant's representatives, attended the Case Management Discussion. The Respondent did not attend.

The Respondent, Mr Ajaegbu, had been advised of the date and time and location of the Case Management Discussion by the Tribunal by letter served on him by Sheriff Officers on 7 September 2018. The intimation to the parties included the information that the Tribunal may do anything at a Case Management Discussion which it may do at a hearing, including making a decision on the application.

The Respondent had been given the 14 days notice required in Rule 24 of the Rules of Procedure. No representations were received from the Respondent and he did not attend the Case Management Discussion.

In terms of Rule 29 the hearing thus took place in his absence.

The Hearing:

Ms Morrice for the Applicants stated that the tenancy for the property is a Short Assured Tenancy. She referred the Tribunal to the documentation lodged with the application showing that a monthly rent of £400 payable in advance each month was set out in the Short Assured Tenancy documents. The Respondent had not paid any rent for months and ignored all correspondence. As per the initial schedule of payments, there were arrears of £2,000. The arrears were actually now higher, as no further payments had been received. An AT6 with a new updated payment schedule showing arrears up to and including 31 May 2018 had been served on the Respondent on 14 June 2018 with the application for repossession.

The Tribunal concluded that as the facts in this case were not disputed by any representations from the Respondent, it was not necessary to adjourn the case to a further hearing.

Findings in Fact:

- 1. The Applicants and the Respondents entered into a Short Assured Tenancy on 30 November 2017 with an end date at 31 May 2018 (Clause 2) with a continuation on a monthly basis (Clause 2).**
- 2. The monthly rent is £400 Pounds Sterling per calendar month in advance payable on the 30th day of each calendar month (Clause 3).**

3. Only £536 in payments had been made in total for the rent from 30 November 2018 to 31 May 2018. The total arrears as at 31 May 2018 were £2,264. No further payments have been received.

Reasons for the Decision:

The Tribunal make the decision on the basis of the written evidence lodged by the Applicants. There is no dispute about the facts of the case. The rent outstanding as per the application is £2,000. No further payments of rent were made. There was no valid defence to the action. It is clear from the email exchange that the Respondent is not disputing the arrears and had undertaken to make payments but then not followed through with this. It is not in dispute that the sum applied for is due to the Applicants. The application was for payment of £2,000 and this had been intimated to the Respondent, who had fair notice of the application.

Decision:

The order for payment of the sum of £2,000 is granted against the Respondent.

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.

Petra Hennig-McFatridge

Legal member/Chair

Date

25.8.18