

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/18/1344

Re: Property at 23 Ardgour Road, Kilmarnock, KA3 2AJ (“the Property”)

Parties:

**Mr Christopher Telfer, 26c Station Parade, Willesden Green, London, NW2 4NH
 (“the Applicant”)**

**Mrs Charina Wallace, 30 Ardgour Road, Kilmarnock, KA3 2AJ (“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 30th May 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 in his application payment of arrears in rental payments of £3,500.00 in relation to the Property from the Respondent, and provided with his application copies of the short assured tenancy agreement, form AT5, notice to quit, section 33 notice, rent arrears statement, and various correspondence.

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 20th November 2018, and I was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 11th December 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant appeared, but was not represented. The Respondent did not appear, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

I was invited by the Applicant with reference to the application and papers to grant an order for payment in the sum of £3,500.00, which represented the rental arrears accrued by the Respondent to the date of this application.

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 arrears statement provided, and was satisfied that this disclosed an outstanding balance of rent arrears as at the date of the Application in the sum sought of £3,500.00. Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, I will make an order for payment by the Respondent to the Applicant of the sum of £3,500.00.

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

11/12/18

Date