



**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/18/1596

Re: Property at Argyll House, Crieff, PH7 3EQ (“the Property”)

Parties:

Dr Stewart Campbell, Argyll House, Crieff, PH7 3EQ (“the Applicant”)

Mr Michael Riley, 136 High Street, Kircaldy, KY1 2YU (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £4600.00

Background

1. By Application dated 12 June 2018 the Applicant applied to the Tribunal for an order for payment by the Respondent in respect of alleged arrears of rent arising from the Respondent’s tenancy of the property. Along with his application the Applicant submitted a copy of the Tenancy Agreement, copy bank statements, email exchanges between the parties and a third party and correspondence with Letting Protection Service (Scotland).
2. By Notice of Acceptance dated 5 July 2018 a legal member of the Tribunal with delegated powers accepted the Application which was referred to a Case Management Discussion.
3. Intimation of the Case Management Discussion was given to the Applicant by post on 30 October 2018 and to the Respondent by Sheriff Officers on 31 October 2018.

4. Further intimation of the date and time of the Case Management Discussion was sent to the parties by email on 22 November 2018. On the same day the Respondent telephoned the Tribunal office and claimed he had not received service of the case papers and did not intend to participate with the Tribunal. The caseworker requested that the Respondent put his concerns in writing in order that the issue could be considered by the Tribunal. The Tribunal did not receive any written representations from the Respondent.

Case Management Discussion

5. The Case Management Discussion took place on 28 November at Inveralmond Business Centre, Auld Bond Road, Perth. It was attended by the Applicant. There was no appearance by the Respondent.
6. At the commencement of the Case Management Discussion the legal member of the Tribunal explained to the Applicant that the Respondent had contacted the Tribunal office to advise that he had not received the case papers. The Tribunal queried with the Applicant if he knew whether the Respondent continued to reside at the address that had been provided for him. The Applicant said that he was certain that the address that he had provided was the address of the Respondent's company and that it was a residential address and that signed for mail had been received there by the Respondent in June or July this year.
7. The Sheriff Officers Certificate of Execution dated 31 October 2018 confirmed that citation had been made by depositing the case papers in the letterbox of the Respondent after making diligent enquiries. The Tribunal was therefore satisfied that proper service of the papers had been given to the Respondent and in the absence of any further written representations from the Respondent by way of explanation as to why he was claiming not to have received the papers as had been requested of him the Tribunal determined to proceed with the Case Management Discussion in the absence of the Respondent in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules").
8. The Applicant confirmed that the deposit of £1600.00 paid by the Respondent at the commencement of the lease had been returned to him in respect of his claim for damage to the property and furnishings. The amount recovered did not include any loss of rent.
9. The Applicant said that the Respondent had paid rent in cash in November 2017 and by bank transfer in December January and February 2018. He said that the Respondent cease making any rent payment thereafter and referred the Tribunal to the bank statements provided with the application. The Applicant also referred the Tribunal to the email exchanges between the parties. The Applicant said that the Respondent had probably moved out of the property sometime in February 2018 but had unlawfully allowed a sub-tenant to occupy the property until 30 April 2018. The Applicant said the proper Notices had been served on the Respondent to bring the tenancy to an end

on 30 April 2018. The Respondent had retained keys to the property but the locks had been changed on 1 May 2018. The Applicant said that the total amount of rent outstanding was £4800.00 less an allowance of £200.00 in respect of the Applicants agreed occupancy of part of the property. Leaving a total amount due of £4600.00.

Findings in Fact

10. The parties entered into a Short Assured Tenancy that commenced on 1 November 2017 and ended on 30 April 2018.
11. At the end of the tenancy the Respondent had accrued rent arrears of £4600.00.
12. The Respondent has made no payment to the Applicant towards the arrears and the amount due by the Respondent remains at £4600.00.

Reasons for Decision

13. The Tribunal was satisfied that there was a valid Certificate of Service by Sheriff Officers and that the Respondent was aware of the date time and place of the Case Management Discussion. The Respondent had not provided any written explanation as to why it was being suggested he had not received the case papers and had chosen not to attend the Case Management discussion.
14. The Applicant had provided sufficient information at the Case Management Discussion together with the documentary evidence provided along with his application to satisfy the Tribunal that there had been a Short Assured Tenancy and that the Respondent had accrued Rent arrears of £4600.00. that had not been paid. The Respondent's deposit had been returned to the Applicant by the Tenants deposit Scheme Administrators in respect of damage to the property and furnishings and not in respect of rent arrears.
15. The Tribunal was satisfied that the Respondent owed the Applicant £4600.00 by way of rent arrears.

Decision

16. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £4600.00.

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.

Mr Graham Harding

Legal Member/Chair

28 November 2018

Date