



**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/18/1868**

**Re: Property at Turwhappie Cottage, Forfar, Angus, DD8 1XH (“the Property”)**

**Parties:**

**Messrs D B Smith & Sons, Messrs D B Smith & Sons, Turwhappie Farm,  
Forfar, Angus, DD8 1XH (“the Applicants”)  
(Represented by Ms Nicola Brown, Blackadders LLP, Solicitors, Dundee)**

**Mr Douglas Reid, Ms Jamie Reid, Turwhappie Cottage, Forfar, Angus, DD8  
1XH; Turwhappie Cottage, Forfar, Angus, DD8 1XH (“the Respondents”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Melanie Booth (Ordinary Member)**

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

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

**Background**

The application previously called for a Case Management Discussion on 7 November 2018 at which the parties were directed to produce certain documentation and information in advance of the Hearing on 18 December 2018.

The Applicants’ representative produced to the Tribunal the following:-

- (a) By letter dated 13 November 2018, correspondence with Angus Council relative to Housing Benefit;
- (b) By letter dated 21 November 2018, further correspondence with Angus Council relative to Housing Benefit;
- (c) By letter dated 27 November 2018, copy text messages exchanged between the Applicants and the Respondents; and

(d) By email dated 17 December 2018, an up to date Rent Statement showing the total rent arrears as at 18 December 2018 to be £13,140, Council Tax Payment Notice in respect of the Property and an email from the Applicants' representative to the First Respondent dated 10 December 2018.

The Respondents failed to comply with the directions issued to them and produced no information or documentation to the Tribunal.

### The Hearing

The Applicants were represented by partners, Mr Hector Hamish Smith and Mr David Fraser Smith, and their legal representative Ms Nicola Brown.

The Respondents were neither present nor represented.

The Tribunal was satisfied that it should proceed in the absence of the Respondents in terms of Rule 29 of the First-tier Tribunal for Scotland Housing & Property Chamber (Rules of Procedure) Amendment Regulations 2017 ("the Regulations").

The Applicants believe the Respondents may have removed from the Property based on:-

- A Demand for Council Tax from Angus Council having been issued to the Applicants with effect from 28 November 2018;
- Oral confirmation from Angus Council that the Respondents had intimated that they had removed from the Property on 28 November;
- The children not having been seen leaving the Property to be taken to school for a period of around 3 weeks; and
- Curtains and blinds in the Property being closed.

The Applicants had produced to the Tribunal evidence that they had paid for the cost of purchasing and installing the stove in the Property being a VAT receipt from Greymetal Limited addressed to Donald B Smith & Sons dated 28 October 2014 and an invoice from Andrew Soutar Stove Installations Limited addressed to Donald Smith dated 26 November 2014. The Respondents had failed to produce contrary evidence.

The Applicants stated that they had never received directly from Angus Council any payments of Housing Benefit and had asked Angus Council not to make any such payments to them by email dated 3 October 2018.

The Applicants' representative therefore invited the Tribunal –

1. To allow the application to be amended by substituting the current rent arrears figure, namely £13,140, for the sum originally claimed; and
2. To grant the application and make an order for payment by the Respondents of £13,140.

With regard to the rent arrears, Ms Brown submitted that the Respondents had received intimation of the previous Notes on the Case Management Discussion on 7 November 2018 that, as at that date, the rent arrears had increased to £12,410. She further submitted that the Respondents would be well aware that they had not made payment of the rent due on 1 December 2018 and therefore the Tribunal should allow the claim to be amended to £13,140 and make an order for payment of that amount.

Ms Brown intimated to the Tribunal that the Applicants were not insisting on their claim for payment of interest.

#### Findings in Fact & Reasons for Decision

- The parties entered in to a Short Assured Tenancy Agreement on 1 September 2014 for the Respondents to lease the Property from the Applicants;
- The term of the Tenancy was originally from 1 October 2014 to 1 April 2015;
- On the expiry of the original term of the tenancy the tenancy continued thereafter on a monthly basis;
- That as at the date of the hearing on 7 November 2018 the Respondents were in arrears of rent of £12,410 and as at 18 December 2018 the Respondents are in arrears of rent lawfully due in the sum of £13,140;
- That the Applicants met the cost of supplying and installing the stove in the Property in 2014;
- That the Respondents received intimation of the Notes on a Case Management Discussion on 7 November 2018 which narrated the rent arrears then to be £12,410.

#### Decision

1. The Tribunal allowed the Applicants' claim to amended to £12,410 being the rent arrears intimated to the Respondents as at 7 November 2018 all in terms of Rule 13 of the Regulations; and
2. The Tribunal made an order against the Respondents for payment to the Applicants of the sum of £12,410.

#### **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.**

Gillian Buchanan

 Legal Member/Chair

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Date

18/12/18