

**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/18/2050**

**Re: Property at 13 Maule Street, Carnoustie, Angus, DD7 7AP (“the Property”)**

**Parties:**

**Mrs Evelyn Hood, c/o Westburn Services, 124 King Street, Broughty Ferry, Dundee, DD5 1EW (“the Applicant”)**

**Mr Ryan Hay, 13 Maule Street, Carnoustie, Angus, DD7 7AP (“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 1<sup>st</sup> August 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 £4,580.00 in relation to the Property from the Respondent, and provided with her application copies of the short assured tenancy agreement, form AT5, rent arrears statement and correspondence between the parties.

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 29<sup>th</sup> October 2018, and I was provided with the execution of service.

### **Case Management Discussion**

A Case Management Discussion was held on 20<sup>th</sup> November 2018 at Hilltown Community Centre, 15 Alexander Street, Dundee. The Applicant did not appear, but was represented by Mr Ramsay. The Respondent did not appear, nor was he 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 Mr Ramsay with reference to the application and papers to grant an order for payment in the sum of £4,580.00, 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 £4,580.00. 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 £4,580.00.

**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 Neil Kinnear

\_\_\_\_\_  
Legal Member/Chair

20/11/18

\_\_\_\_\_  
Date