



**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/18/2341

**Re: Property at White House Cottage, Newark, Ayr, South Ayrshire, KA7 4ED
("the Property")**

Parties:

**Trustees of A.G.O. Walkers Testamentary Trust, Newark, Ayr, South Ayrshire,
KA7 4ED ("the Applicant")**

**Mr Kenneth Pickering, Mrs Sarah Pickering, Station Cottage, Kilkerran,
Maybole, South Ayrshire, KA19 8LS ("the Respondents")**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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

Background

An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 Rules") seeking an order for payment of rent arrears amounting to £2,405 in relation to an assured tenancy for the Property.

The application contained :-

- a copy of the Tenancy Agreement;
- Copy AT5
- a copy letter from Messrs Stewart Gilmour & Co Chartered Accountants confirming the rental statement

- statement of rent arrears on nominal ledger
- copy of notice to quit
- emails confirming recovery of the deposit to agent.

The Applicant was represented by Mr Cherry, of the Galbraith Group. There was no appearance from the Respondents.

The Notice of the Hearing had been served on the Respondents by sheriff officers on 7 November 2018. As I was satisfied that the Respondents had been given formal notice of the today's case management discussion I was prepared to proceed with it in their absence.

The Hearing

The Applicants' representative advised that the rent arrears were still outstanding as at today's date.

He confirmed that he was in fact seeking an order for the amended sum of £2005, he advised that this was the final outstanding rent sum, after the the deposit monies were deducted from the total balance due.

He advised that the Respondents had ben tenants for some time, however there had been persistent rent arrears. There had been difficulties with rent arrears last year leading to a notice to quit being served. The Respondents had repaid the arrears at that time, and due to that it had been agreed that a new tenancy would be entered into and that they could remain in the Property. However they again fell into arrears. He advised that there had been numerous letters and phone calls to the Respondents asking for repayment of the rent arrears and a number of efforts to get them to repay the arrears, these efforts had not been successful.

Findings in Fact

The Tribunal found the following facts to be established:

A tenancy agreement existed between the Applicants and the Respondents for the property. It had been entered into on 30 March 2017.

The lease set out that rent was £540 per month and Clause 2 of the lease provided that rent was payable in advance.

That the letter dated 27 August 2018 from Stewart Gilmour & Co Chartered Accountants to the Applicants showed the rental income for the Property and as at 30 June 2018 that there were rent arrears for the property amounting to £2480.

The tenancy for the Property ended on 1 July 2018.

The Notice to Quit sought vacant possession as at 1 July 2018.

Email correspondence from Safe Deposit Scotland showed that the deposit of £475 was to be repaid to the agent.

The Agent for the Applicant confirmed that the deposit had been used to reduce the rent arrears to £2005.00.

There appeared to be outstanding rent arrears amounting to £2005.00.

Reasons for Decision

Section 16 of the Housing (Scotland) Act 2014 provides that the Tribunal has jurisdiction in relation to actions arising following from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988.

As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this case.

There was no response or appearance from the Respondents but they had been made aware of today's hearing.

The tenancy agreement created obligations between the landlord and tenant, one of those obligations was to pay rent, and the Respondents failed to do so. There was submitted a rental statement showing the arrears due.

On the basis of the evidence submitted, I consider that I am entitled to make an order for the sum sued for.

Decision

I grant an order in favour of the applicant for TWO THOUSAND AND FIVE POUNDS (£2,005.00) STERLING against the respondents

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.

Ms Melanie Barbour

Legal Member/Chair

27. 11. 18
Date