



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2016**

Chamber Ref: FTS/HPC/CV/18/3327

Re: Property at 150 H Hilltown, Dundee, DD3 7BJ (“the Property”)

Parties:

Miss Alison Dowie, 16 Courtachy Cres, Dundee, DD5 3BF (“the Applicant”)

**Mr Michal Hinz, residing formerly at 150H Hilltown, Dundee DD3 7BJ and
whose present whereabouts are unknown (“the Respondent”)**

Attendees at CMD:

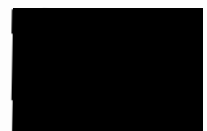
Mr Darren Burnside, the Applicant’s representative (by teleconference call)

Tribunal Member:

Ailëen Devanny (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment in the sum of £3,380.00
should be made for arrears of rent due for the period from 1 September 2017
until 30 September 2018.**



Background

1. On 11 December 2018 the Applicant lodged an application under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rule of Procedure. The application was for an order for payment of rent arrears for the above named Property.
2. This case called for a case management discussion (CMD) on 30 January 2018 before the Tribunal. The Respondent did not attend and there was doubt as to whether the application paperwork had been properly served on him and if the Respondent had received notification of the date, place and time of the CMD. Additional information was sought by the Tribunal from the Applicant to support the termination of the tenancy on 28 September 2018. The Tribunal also required from the Applicant a corrected schedule of rent due and payments received from the Respondent.
3. The Applicant provided the information sought on 17 March 2018 and submitted a request for service by advertisement on the Respondent as he had no current address for the Respondent.
4. Notification of the second CMD and service of application papers on the Respondent was completed by the service by advertisement procedure. Certification to that effect was provided to the Tribunal by a team leader of Scottish Courts and Tribunals Service on 8 May 2019.

The Second Case Management Discussion held on 8 May 2019

5. The Respondent did not attend the CMD. A period of time in excess of 20 minutes was given for the Respondent to attend beyond 11.30. The Applicant's representative Mr Burnside attended via conference call. Written notification had been given to parties in advance that the Tribunal could decide the matter at a CMD if satisfied it had sufficient evidence and it was fair to do so.
6. The Legal Member explained the procedure for the CMD at the start of the proceedings and asked Mr Burnside to clarify if a deposit had been taken from the Respondent which could be used to offset the arrears of rent. Mr Burnside confirmed that no deposit had been taken. His attention was drawn by the Legal Member to the bank statements submitted with the original application which confirmed the payments made by the Respondent and a discrepancy of £10 in the payment for 8 December 2017 from the Statement of rental payments and receipts submitted by the Applicant on 17 March 2019. The Applicant's representative confirmed that the Statement of rental payments should be amended and the sum sought £10 less than shown in the Statement.
7. The Applicant's representative indicated that the Applicant was not aware until January 2019 that the Respondent had vacated the Property. The Applicant



became aware of this from Dundee City Council who had been contacted by the Respondent on 18 January 2019 to confirm that he had vacated the property for council tax purposes on 28 September 2018.

8. Findings in Fact

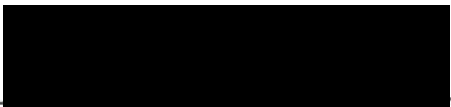
- The parties entered into a tenancy agreement for the Property.
- The Respondent was due to pay the Applicant rent at the rate of £360 per month in advance.
- The rent arrears due for the period from 1 September 2017 until 30 September 2018 are £3,380.00.
- No tenancy deposit was taken.
- The Respondent vacated the property on 28 September 2018.
- The Applicant became aware that the Respondent had left the property in 2019.

Reasons for Decision

Having been satisfied that the amount of £3,380.00. is due by the Respondent to the Applicant for the rent for the Property covering the period to 30 September 2018, a payment order for that sum is made.

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.


Legal Member/Chair

8th May 2019.
Date