



**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/19/4058

**Re: Property at 5 Moran Court, East Academy Street, Wishaw, ML2 8FB (“the
Property”)**

Parties:

**Mr Robert Nelson, Mrs Margaret Nelson, 6 Heather Row, Carluke, Lanarkshire,
ML8 5EG; 6 Heather Row, Carluke, Lanarkshire, ML8 5EQ (“the Applicants”)**

**Mrs Karen Bradley, 5 Moran Court, East Academy Street, Wishaw, ML2 8FB
 (“the Respondent”)**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision

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

Background

This is an application for a payment order dated 18th December 2019 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 Applicants originally sought in their application payment of arrears in rental payments of £1,650.00 as at the date of the application, but amended this figure in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended to £2,200.00 to include a further month’s rent which had accrued prior to the date set for the Case Management Discussion.

The Applicants provided with their application copies of the short assured tenancy extension agreement and rent arrears details.

The short assured tenancy extension 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 has been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 13th January 2020, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held by conference call on 13th February 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Second Applicant participated, and was not represented. She represented her husband, the First Applicant, who did not participate. The Respondent participated, and was represented by Mr Melvin, senior housing advice network officer.

The Tribunal was invited by the Second Applicant with reference to the application and papers to grant an order for payment of the sum of £2,200.00, which is the current amount of rent arrears as of today's date.

Mr Melvin advised the Tribunal that the Respondent accepted the arrears were due, and could not oppose the granting of the order sought. She did not seek time to pay, as she had no available income to offer payment from, and was seeking debt management advice.

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 Applicants) 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 extension agreement, the copy rent arrears information provided, and parties' submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicants in respect of rent arrears of £2,200.00 (the rent due in terms of the tenancy agreement being £555.00 per month).

Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicants of the sum of £2,200.00.

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.



Legal Member/Chair

13/02/20

Date