



**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/19/1478

Re: Property at 24D Aboyne Avenue, Dundee, DD4 7TB (“the Property”)

Parties:

Mr Barry Gray, 128 Balunie Street, Dundee, DD4 8TX (“the Applicant”)

**Ms Amanda Roberts, 24D Aboyne Avenue, Dundee, DD4 7TB (“the
Respondent”)**

Tribunal Members:

Ewan Miller (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 favour of the Applicant
against the Respondent should be granted in the sum of THREE THOUSAND
AND SIXTY FIVE POUNDS (£3065) STERLING**

Background

The Applicant was the owner of the Property, which he alleged he had let to the Respondent around 2015. He further alleged that the Respondent had ceased to make payment of the agreed rent and, as a result, he had required to make an application to the Tribunal seeking a payment order against the Respondent.

The Tribunal had before it the following documentation:-

- The Applicant’s application to the Tribunal dated 14 May 2019
- Copies of the Applicant’s bank statements from 2015 to date showing payments by the Respondent
- A rental statement calculation showing arrears of £3065 as at 1 May 2019
- Sheriff Officers Certificate of Execution dated 24 June 2019
- Land Certificate for the Property showing it was owned by the Applicant

Case Management Discussion ("CMD")

The Tribunal held a CMD at Dundee on 29 July 2019 at Caledonian House, Greenmarket, Dundee at 10am. The Applicant was not present but was represented by Mr Alec Campbell of Campbell Boath, Solicitors. The Respondent was neither present nor represented.

The Tribunal noted that the CMD papers had been sent to the Respondent via Sheriff Officers and that successful service had occurred. The papers highlighted that a decision could be made at the CMD in the absence of the Respondent and that she should attend the CMD. The Tribunal was therefore comfortable that it was competent and appropriate for it to make a determination at the CMD.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property
- The Applicant had let the Property to the Respondent sometime around March 2015
- The monthly rental under the lease was £375
- From July 2018 the Respondent had stopped making regular payments and at the time of the Applicants application to the Tribunal there were arrears of rent of £3,065 outstanding and due.

Reasons for the Decision

The Tribunal noted that the Applicant was not able to produce a written lease, this having been lost by him at some point. However, extensive bank statements were produced going back to 2015 that showed regular monthly payments from the Respondent at £375 per calendar month. On that basis, the Tribunal was content, on the balance of probability, to accept the Applicant's position that there was a lease in place at £375 per calendar month. The Sheriff Officer's enquiries had confirmed with neighbours that the Respondent was resident in the Property and this fortified the Applicants submission that the Respondent was his tenant.

The bank statements produced showed that regular monthly payments stopped around summer 2018. A couple of one off payments had been received in January and March 2019. However, by the time the Application had been submitted to the Tribunal in May 2019 there were arrears outstanding of £3065. Mr Gray of Campbell Boath confirmed that they had chased the Respondent for payment and whilst a repayment schedule had been agreed with the Applicant, the Respondent had not stuck to this. Accordingly they felt they had no option but to go to the Tribunal.

Taking all of the information in to account, the Tribunal was satisfied that there was a lease in place at a rental of £375 per calendar month and that the Respondent had defaulted on payment. There was no evidence or submissions from the Respondent to the contrary and on that basis the Tribunal was content to grant an order for payment in favour of the Applicant at £3065 in respect of the arrears of rental due.

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.

E.Miller

Legal Member/Chair

22/7/19

Date