



**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 (Act)**

**Chamber Ref: FTS/HPC/CV/19/0822**

**Re: Property at Garden House, Ayton Castle Estate, Eyemouth, Berwickshire,  
TD14 5RD (“the Property”)**

**Parties:**

**Mr Brian Parsons, Mr Richard Syred, Ayton Castle, Ayton, Eyemouth,  
Berwickshire, TD14 5RD (“the Applicant”)**

**Mrs Moira Brown, Garden House, Ayton Castle Estate, Eyemouth,  
Berwickshire, TD14 5RD (“the Respondent”)**

**Tribunal Members:**

**Alan Strain (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Respondent be ordered to pay the Applicant the  
sum of £7,020.00 in respect of rent arrears with interest at 4.75%**

**Background**

**This is an application for payment in respect of rent arrears under Rule 70 of the  
Procedure Rules and section 16 of the Act.**

**The Tribunal had regard to the following documents:**

- 1. Application received 13 March 2019;**
- 2. Lease dated 26 September 2006;**
- 3. Statement of Rent Arrears dated 26 February 2019.**

**Case Management Discussion (CMD)**

The case called for a CMD on 27 August 2019. The Applicant was not present but was represented by a solicitor. The Respondent was not present but was also represented by a solicitor.

The Tribunal heard from the Parties. The Respondent's solicitor sought a Hearing given that a Repairing Standards Enforcement Order (RSEO) had been granted against the Applicant and the Applicant had not complied with the RSEO in time. It was argued that the Respondent should be entitled to an abatement of rent.

The Applicant's solicitor disputed that the RSEO had not been complied with and that all the necessary repairs had been completed. In any event it would have been open to the Respondent to pursue any remedy through section 27(2) of the Housing (Scotland) act 2006 and she had not done so.

The Respondent's solicitor added that her client had withheld the rent to encourage performance and that once the repairs had been carried out she commenced payment of rent.

The Tribunal considered the submissions of the Parties and determined that the RSEO issue did not provide the Respondent with a defence to the current application for payment of rent arrears. Once the repairs had been effected then the rent became due. If the Respondent had issues with compliance with the RSEO she ought to have pursued any remedy under section 27(2).

Having made this determination the Tribunal made the following findings in fact:

1. The Parties entered in to the Lease of the Property on 26 September 2006;
2. The monthly rent was £540;
3. As at 26 February 2019 the amount of rent arrears were £7,020;
4. In terms of the Lease the Applicant was entitled to charge interest at the rate of 4% above base rate.

The Tribunal considered that it had sufficient information upon which to make a Decision and that it was fair to do so. The Tribunal determined that the Respondent be ordered to pay the rent arrears of £7,020.00 to the Applicant with interest at the rate of 4.75% per annum.

### **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.**

Alan Strain

Legal Member/Chair

27 August 2019

Date