



**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/18/3066

Re: Property at 16, Ken Road, Bellfield, Kilmarnock, KA1 3QR (“the Property”)

Parties:

Mr Alan Ross, 22 Adrblair Road, Blairgowrie, PH10 6QA (“the Applicant”)

**Mr Barry McHarg, 17 Blacksykes Avenue, Shortlees, Kilmarnock, KA1 4SR
 (“the Respondent”)**

Tribunal Members:

Karen Moore (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 FIVE THOUSAND POUNDS (£5,000.00) STERLING be granted.

1. By application received on 15 November 2018 (“the Application”), the Applicant made an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) to the Tribunal for an order for £5,000.00 in respect of rent due and owing by the Respondent arising from a tenancy of the Property. The Applicant also sought an order for payment of a nominal sum to an animal charity.
2. The Application comprised a copy of a short assured tenancy agreement between the Parties in terms of the Housing (Scotland) Act 1988 evidencing that a tenancy began on or around 1 December 2011 at a monthly rent of £400.00, copy email bank statements from the Applicant’s bank showing payments from the Respondent and a statement from the Applicant’s letting agents showing payments from the Respondent.
3. On 8 January 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 22 February 2019, postponed to 29 April 2019

and thereafter postponed again to 24 May 2019 at 10.00 at the Glasgow Tribunal Centre, 20 York Street, Glasgow, G2 8GT by telephone conference.

Case Management Discussion

4. The CMD took place by telephone conference on 24 May 2019 at 10.00. The Applicant took part. The Respondent did not take part.
5. I explained to the Applicant the purpose of the CMD with reference to the relevant Rules.
6. I asked the Applicant to advise me of the date on which the tenancy ended and he advised me that it was 11 December 2012. With reference to the bank statements and the letting agent statement, I asked the Applicant if rent arrears in excess of £5,000.00 remained due and owing by the Respondent and to confirm to me that, although sporadic payments had been made throughout the tenancy on or on behalf of the Respondent, the full amount had not been paid. The Applicant confirmed that this was the case and explained that on occasions the Respondent made payments, the Respondent's mother made payments and housing benefit was received but the full rent due was not paid. The Applicant confirmed that, although the sum sought by him is £5,000.00, the actual amount due and owing is considerably in excess of this sum.
7. With regard to the Applicant's claim for an award of £300.00 to be made to a charity, I advised the Applicant that there was no power to allow me to do this and the Applicant accepted the position.

Findings in Fact

8. From the Application and the CMD, and having no reason to disbelieve the Applicant who responded to my questions in a straightforward and measured way, I found that a short assured tenancy agreement between the Parties commenced on or around 1 December 2011 at a monthly rent of £400.00 and ended on the sum of £5,000. I found that although payments of rent had been made by or on behalf of the Respondent from time to time, the payments were not sufficient to meet the full cost of the rent due and that at least the sum of £5,000.00 claimed by the Applicant as due and owing to him by the Respondent is outstanding.

Decision and Reasons for Decision

9. Having found that the sum as claimed in the Application is due and owing by the Respondent to the Applicant, and having regard to Rule 17(4) of the Rules which states that a First-tier Tribunal may do anything at a case management discussion which it may do at a hearing including making a decision, I decided to grant an order for £5,000.00 without further procedure.
10. With regard to the Applicant's claim for an award to be made to a charity, as there is no power to allow me to do this, I did not make this order.

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.

Karen Moore

Legal Member/Chair

24 May 2019

Date