



**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/21/3192

**Re: Property at Flat 3/3, 27 Elizabeth Street, Ibrox, Glasgow, G51 1SP (“the
Property”)**

Parties:

**Ms Madeleine Farrand or Holtham, 114 Norse Road, Scotstoun, Glasgow, G15
9EQ (“the Applicant”)**

**Ms Maymunah Ilyas also known as Mrs Alyanah Abubakar, Mr Abubakar Warsi,
formerly residing at Flat 3/3, 27 Elizabeth Street, Ibrox, Glasgow, G51 1SP and
whose current whereabouts are unknown (“the Respondents”)**

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order is granted against the Respondents jointly
and severally for payment of the undernoted sum to the Applicant:**

**Sum of NINE THOUSAND SEVEN HUNDRED AND TWELVE POUNDS AND
FORTY-FOUR PENCE (£9,712.44) STERLING**

- Background
1. An application was submitted to the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking a payment order against the Respondents in relation to rent arrears accrued under a short assured tenancy agreement.

2. A Case Management Discussion (“CMD”) took place on 13 June 2022 by tele-conference. There was no appearance by, or on behalf of, either of the parties. The Applicant had been notified of the date of the CMD by letter and email dated 4 May 2022 sent to their representatives, Russells Gibson McCaffrey. Due to their current whereabouts being unknown, the application was served on the Respondents by way of website advertisement between 4 May 2022 and 13 June 2022, in terms of Rule 6A of the Rules.
3. Due to the failure by either party to appear or be represented, the Tribunal dismissed the application in terms of Rule 27(2)(b) of the Rules, in that the Applicant has failed to cooperate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly or fairly.
4. On 24 June 2022 the Applicant’s representative emailed the Tribunal administration with an application for recall of the Decision, in terms of which they advised that the failure to appear at the CMD was entirely down to an administrative error on the part of the Applicants agent and not due to any fault or error on the part of the Applicant themselves.
5. The Tribunal determined in a decision of 4 July 2022 that it was in the interests of justice that the application for recall of the Decision of the Tribunal dated 13 June 2022 is granted. The application was remitted back to a Case Management Discussion for determination.
 - The Case Management Discussion
6. A Case Management Discussion took place on 11 October 2022 by tele-conference. The Applicant was represented by Mr Heraghty of Russells Gibson McCaffrey. There was no appearance by or on behalf of the Respondents. The Applicant’s application for recall of the decision of 13 June 2022, and subsequent decision of the Tribunal to grant same dated 4 July 2022, were served by way of Service by Advertisement in terms of Rule 6A of the Rules between 26 August 022 and 11 October 2022, due to the Respondents’ current whereabouts being unknown.
7. The Applicant moved for the order for payment to be granted as sought. The parties had entered into a Short Assured Tenancy Agreement. The Respondents had failed to make payment of rent and had fallen into arrears amounting to £9,712.44. The monthly rent was £375. The Respondents vacated the Property in November 2021 and no payments had been made since nor any proposals for payment made.
 - Findings in Fact
8. The Tribunal made the following findings in fact:

- (a) The parties entered into a Short Assured Tenancy Agreement (“the Agreement”) which commenced 14 November 2012;
- (b) In terms of the Agreement, the Respondents were obliged to pay a monthly rent of £375 to the Applicant;
- (c) The Respondents had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £9,712.44.

- Reasons for Decision

9. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondents were obliged to make payment of rent in the sum of £375 per month under the Agreement and had failed to do so. They had accrued arrears amounting to £9,712.44 and which fell lawfully due to be repaid to the Applicant.

- Decision

10. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondents jointly and severally for payment of the undernoted sum to the Applicants:

Sum of NINE THOUSAND SEVEN HUNDRED AND TWELVE POUNDS AND FORTY-FOUR PENCE (£9,712.44) STERLING

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.

Fiona Watson

Legal Member/Chair

Date: 11 October 2022