



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 70(1) of the Private Housing
Tenancies (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/22/1073

Re: Property at 90 Albert Street South (3/2), Dundee, DD4 6QH (“the Property”)

Parties:

**The BRL 1995 Discretionary Trust, Bannerman House, 27 South Tay Street,
Dundee, DD1 1NR (“the Applicant”)**

Mr Francis Dunn, 234 Balunie Drive, Dundee, DD4 8RS (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Five thousand and twenty eight pounds and one pence (£5028.01) against the Respondent together with interest at the rate of five per cent per annum from the date of decision until payment

Background

- 1 By application dated 11 April 2022, the Applicant sought an order for payment in the sum of £5028.01 against the Respondent. In support of the application the Applicant provided:-
 - (i) Short Assured Tenancy Agreement between the parties dated 5 October 2017;
 - (ii) Refund of deposit schedule; and
 - (iii) Rent Statement.

- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for the 12 August 2022 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

Case Management Discussion

- 3 The Case Management Discussion took place on 12 August 2022. Mr Stewart Forrest from Lindsays Solicitors represented the Applicant and was accompanied by his colleague Miss Boettcher as an observer.
- 4 The Legal Member noted that the Respondent had received proper notification of the Case Management Discussion and therefore determined to proceed in her absence. She asked Mr Forrest to address her on the terms of the application.
- 5 Mr Forrest confirmed that the Applicant sought an order for payment. The Applicant was a trust and the proprietor of the property to which the application related. The property had been let to the Respondent under a short assured tenancy with a rent of £400 per calendar month. As at the date of the application and the date of the Case Management Discussion arrears stood at £5373.01. However the tenancy deposit of £345 had been deducted from the sum outstanding, therefore the Applicant sought an order in the sum of £5028.01 together with interest at the rate of five per cent per annum from the date of decision until payment.

Findings in Fact and Law

- 6 The parties entered into a Short Assured Tenancy Agreement dated 5 October 2017.
- 7 In terms of Clause 3 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £400 per calendar month.
- 8 The tenancy terminated on 16 September 2021.
- 9 As at the date of termination, rent arrears in the sum of £5373.01 were outstanding.
- 10 The tenancy deposit in the sum of £345 was repaid to the Applicant and deducted from the outstanding rent arrears.
- 11 The Respondent is therefore liable to pay the sum of £5028.01 to the Applicant.

12 Despite repeated requests the Respondent has refused or delayed to make payment of the sum due.

Reasons for Decision

13 The Tribunal was satisfied that it could make a determination of the application at the Case Management Discussion and that to do so would not be detrimental to the parties. The Respondent had received proper notification of the application paperwork and had not taken the opportunity to participate in the proceedings.

14 Based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £5028.01. The Tribunal accepted the evidence of the Applicant that the Respondent had a contractual obligation to make payment of rent at the rate of £300 per month and had failed to obtemper this. There was nothing before the Tribunal to contradict the position put forward by the Applicant.

15 The Tribunal therefore made an order for payment against the Respondent in the sum of £5028.01. The Tribunal was further satisfied that it would be reasonable to make an award of interest at the rate of five per cent per annum from the date of decision until payment.

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.

R O'Hare

12 August 2022

Legal Member/Chair

Date