



**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/20/1293**

**Re: Property at Flat 0/2, 2 Memel Street, Springburn, Glasgow, G21 1LL (“the  
Property”)**

**Parties:**

**Miss Gillean McNeill, 6 Lochburn Gardens, Glasgow, G20 0SL (“the Applicant”)**

**Mr Bjarne Hoglund, Flat 0/2, 2 Memel Street, Springburn, Glasgow, G21 1LL  
 (“the Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that**

**Background**

This is an application for a payment order dated 23<sup>rd</sup> March 2020 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant originally sought payment of arrears in rental payments totalling £1,725.00 as at the date of the application in relation to the Property from the Respondent, and provided with her application copies of a short assured tenancy agreement and a rent arrears statement.

The Applicant subsequently on 10<sup>th</sup> August 2020 advised the Tribunal by letter that rent arrears had increased to the sum of £4,025.00, and purported to seek to amend the sum sought in this application in terms of Rule 14A of *The First-tier Tribunal for*

*Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended to that amount.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 30<sup>th</sup> July 2020, and the Tribunal was provided with the execution of service.

### **Case Management Discussion**

A Case Management Discussion was held at 14.00 on 20<sup>th</sup> August 2020 by Tele-Conference. The Applicant did not participate, but was represented by Mr Hanif, solicitor. The Respondent did not participate, nor was he represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Mr Hanif with reference to the application and papers to grant an order for payment of the sum of £4,025.00. Mr Hanif confirmed that the sum sought was the amount of rent arrears outstanding as of today's date.

### **Statement of Reasons**

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the rent arrears statement, and Mr Hanif's submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicant in respect of rent arrears of £4,025.00. The lease agreement provides that rent of £525.00 per month is payable in advance.

The Tribunal noted that the purported application to amend in terms of Rule 14A comes too late, as that rule requires a minimum of 14 days' notice to be given before a Case Management Discussion.

However, the Tribunal considered that no amendment to the application was required. The original application fully explains that the current arrears as at the date of the application were £1,725.00.

Part 5(c) of the application form provides details of the order sought from the Tribunal, and asks for an order for the Respondent to make payment of the rental arrears earlier set out to the Applicant, or of such other sum as the Tribunal finds liable.

The Tribunal considered that this provides fair notice to the Respondent that the Applicant is seeking an order for payment of rent arrears of the sum then outstanding, or such other sum that the Tribunal finds him liable for. The Applicant has provided in advance of the Case Management Discussion details of the sum of £4,025.00 for which as of today's date the Respondent is liable, and accordingly no amendment is required to the application.

Accordingly, the Tribunal shall make an order for payment of the sum sought.

### **Decision**

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £4,025.00.

### **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.**

N. Kinnear

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**Legal Member/Chair**

**20 August 2020**

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**Date**