



**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/21/0345**

**Re: Property at 0/1 12 Glenraith Walk, Craigend, Glasgow, G33 5PB (“the  
Property”)**

**Parties:**

**Mrs Ann McKegney, 29 Westerten, Lennoxton, Glasgow, G66 7LR (“the  
Applicant”)**

**Miss Janette McKenzie, formerly residing at 0/1 12 Glenraith Walk, Craigend,  
Glasgow, G33 5PB, and whose present whereabouts are unknown (“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 was an application for a payment order dated 15<sup>th</sup> February 2021 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 sought payment of arrears in rental payments totalling £4,236.13 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 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.

Service was validly effected by advertisement in terms of Rule 6A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, and the Tribunal was provided with the Certificate of Service by advertisement.

### **Case Management Discussion**

A Case Management Discussion was held at 10.00 on 27<sup>th</sup> August 2021 by Tele-Conference. The Applicant did not participate, but was represented by Miss Sharon Cooke and Miss Katrina O'Neill, letting agents. The Respondent did not participate, nor was she represented. The Respondent had 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.

Miss Cooke advised the Tribunal that she believed that the Respondent no longer resided at the Property, and that rent arrears had continued to accrue since the date of the application. She confirmed that at this time she simply wished to seek the amount outstanding as at the date of the application.

The Tribunal noted that the application form stated that this application was brought in terms of Rule 111 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, but that the Applicant amended the Rule relied upon from Rule 111 to Rule 70.

The Tribunal was invited by Miss Cooke with reference to the application and papers to grant an order for payment of the sum of £4,236.13.

### **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 Miss Cooke’s submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicant in respect of rent arrears to 15<sup>th</sup> February 2021 of £4,236.13. The lease agreement provides for a rent payment of £530.00 per month.

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 £4,236.13.

## **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. K**

27 August 2021

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**Legal Member/Chair**

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**Date**