

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/21/1347**

**Re: Property at 30 Howden Avenue, Kilwinning KA13 7AH (“the Property”)**

**Parties:**

**Ms Yan Li, 73 High Street, Irvine KA12 0AL (“the Applicant”), and**

**and**

**Ms Joyce Bennie, 30 Howden Avenue, Kilwinning KA13 7AH (“the Respondent”) and**

**CHAP, 71 Princes Street, Ardrossan KA22 8DG (“the Respondent’s Representative”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**G Darroch- Ordinary Member**

**Decision:**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:**

**Background**

1. This is an Application for a payment order, contained in papers lodged with the Tribunal between 3<sup>rd</sup> June 2021 and 22<sup>nd</sup> June 2021, under Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”). (Application for civil proceedings in relation to an assured tenancy) for an order for payment in respect of claimed unpaid rent.

2. In the Application the Applicant sought payment in respect of rent arrears in the sum of £3369.88. The Applicant lodged a Statement of Rent Arrears in this amount with the Application.
3. The parties' 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.
4. 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 2021.

### **Case Management Discussion**

5. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 10am today, 2<sup>nd</sup> September 2021. The Applicant did not attend. Mr A Meek, of CHAP, the Respondent's Representative, attended on her behalf.
6. The Tribunal Clerk called the Applicant on two occasions after 10am today but her calls were not answered. The Tribunal commenced the Hearing at 10.20am this morning.
7. Mr Meek submitted that the Respondent accepted that the outstanding rent arrears of £3369.88, referred to in the Application, were due, and that a payment order in that amount should be granted. He stated that the Respondent's tenancy of the Property was unaffordable for her and that she would seek to repay the arrears after she was re-homed in other accommodation. Mr Meek further submitted that CHAP is assisting the Respondent with an application for alternative housing. He, candidly, stated that the rent arrears had increased since the lodging of the Application and acknowledged that it was open to the Applicant to lodge a fresh Application for a payment order in respect of a further balance of rent arrears due. He also stated that the Respondent accepted that an Eviction order should be granted, in the linked Application Ref FTS/HPC/EV/21/1252, and stated that this would stop further rent arrears accruing.

### **Statement of Reasons for Decision**

8. 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.”

9. Accordingly, the Tribunal now has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rental monies against tenants (such as the Respondent) under a Short Assured Tenancy.


10. The Tribunal considered the terms of the Short Assured Tenancy agreement, the Statement of Rent Arrears and, in particular, the submissions made by Mr Meek today. Having done so, the Tribunal was satisfied that the sum of £3369.88, claimed in this Application, is due to be paid to the Applicant by the Respondent and that it is reasonable to make an order for payment of that sum.

### **Decision**

11. The Tribunal makes an order for payment by the Respondent to the Applicant of the sum sought of £3369.88.

### **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.**

  
G McWilliams

2<sup>nd</sup> September 2021

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**Legal Member**

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**Date**