



**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/22/0508

Re: Property at 13 Ellismuir Road, Baillieston, G69 7HP (“the Property”)

Parties:

Mr John Harkess, 38 Daavar Drive, Coatbridge, ML5 1JL (“the Applicant”)

**Carolyn Stewart, formerly residing at 13 Ellismuir Road, Baillieston, G69 7HP
and whose current whereabouts are unknown (“the Respondent”)**

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

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

Sum of FOUR THOUSAND POUNDS (£4,000) STERLING

- Background
- 1. An application was submitted to the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a short assured tenancy agreement.
- The Case Management Discussion
- 2. A Case Management Discussion (“CMD”) took place on 20 July 2022 by conference call. The Applicant was personally present and represented by Mr

Lloyd of Harper MacLeod. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 25 May 2022.

3. The Applicant's representative advised that the Respondent had vacated the Property. The parties had entered into a Short Assured Tenancy Agreement which commenced 1 November 2017. The Respondent had failed to make payment of rent and had fallen into arrears amounting to £1,500 at the time of submitting the application. At the date of the CMD the arrears stood at £4,500. The Applicant's representative sought either an order to be granted in the increased sum of £4,500, failing which, a continuation of the CMD for an application to be lodged under Rule 14A for an increase in the sum sought. The Tribunal was not satisfied that an order should be granted in the increased sum, give that no application to increase had been submitted under Rule 14A and no intimation of that intention to seek an increase had been made on the Respondent. Accordingly, the Tribunal continued the CMD for an application for an increase under Rule 14A to be made by the Applicant and considered at the next CMD. The Applicant agreed to email the Tribunal administration following the CMD with confirmation of the Respondent's new address in order that service could be effected on her.
 4. Following the CMD, service could not be effected by Sheriff Officers at the alternative address provided by the Applicant's representative. Accordingly, service was effective by way of Service by Advertisement between 2 September 2022 and 7 October 2022.
 5. A further CMD took place on 7 October 2022. The Applicant was represented by Mr Buchanan of Buchanan Burton. There was no appearance by or on behalf of the Respondent.
 6. An application for an increase in the sum sought under Rule 14A had been made by the Applicant by way of email of 1 August, seeking to increase the sum sought to £4,000. An updated rent statement was also provided. The Applicant's representative move for an Order to be granted in the sum of £4,000. There had been no contact with the Respondent since she had moved out of the Property in July 2022.
- Findings in Fact
7. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 1 November 2017;
 - (ii) In terms of Clause Second of the Agreement, the Respondent was obliged to pay a monthly rent of £500 to the Applicant;
 - (iii) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £4,000.

- Reasons for Decision
8. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondent was obliged to make payment of rent in the sum of £500 per month under Clause Second of the Agreement and had failed to do so. She had accrued arrears amounting to £4,000 and which fell lawfully due to be repaid to the Applicant.
 9. Accordingly, the Applicant was entitled to the Order for Payment as sought.
- Decision
10. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment of the undernoted sum to the Applicant:

Sum of FOUR THOUSAND POUNDS (£4,000) 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: 7 October 2022