

**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/22/1130

**Re: Property at 56-3 Strathleven Place, Dumbarton, West Dunbartonshire, G82
1BA (“the Property”)**

Parties:

Mr Andrew Robertson, 6 Westmost Close, Edinburgh, EH6 4TE (“the Applicant”)

**Mr David Sheridan, 56-3 Strathleven Place, Dumbarton, West Dunbartonshire,
G82 1BA (“the Respondent”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for payment by
the Respondent to the Applicant in the sum of £3300.00 with interest thereon at
the rate of 2.5% per annum from the date of the decision until payment.**

Background

1. By application dated 15 April 2022 the Applicant’s representatives Lindsays LLP, Solicitors, Edinburgh, applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s occupancy of the property under a Short Assured Tenancy. The Applicant’s representatives submitted a copy of the tenancy agreement together with a Schedule of Arrears in support of the application.
2. By Notice of Acceptance dated 10 May 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 24 May 2022.

The Case Management Discussion

4. A CMD was held by teleconference on 19 May 2022 the Applicant did not attend but was represented by Mr Mike Piggott from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that the Respondent had been given proper intimation of the CMD determined to proceed in his absence.
5. Mr Piggott referred the Tribunal to the Schedule submitted in support of the application. He said that no further payments had been received and that the Respondent remained in the property. He advised the Tribunal that there had been no communication from the Respondent and no explanation as to why rent was not being paid. He asked the Tribunal grant an order for payment in the sum of £3300.00 together with interest at the rate of 5% per annum.
6. In response to a query from the Tribunal Mr Piggott acknowledged that any award of interest was at the Tribunal's discretion but from his past experience other tribunals had awarded interest at a lower rate of 3% but one Tribunal was not bound by another Tribunal's decision. The Tribunal noted that the tenancy agreement was silent on interest being due on unpaid rent but acknowledged that the Respondent had been given notice that interest at 5% was being sought in the application that was served upon him.

Findings in Fact

7. The parties entered into a Short Assured Tenancy agreement that commenced on 13 January 2017 and endured until 14 July 2017 and continued from month to month thereafter at a monthly rent of £370.00.
8. As at 13 April 2022 the Respondent owed rent to the Applicant in the sum of £3300.00.
9. The Respondent has not provided the Applicant or his representatives with any reason for his failure to pay his rent.

Reasons for Decision

10. The Tribunal was satisfied from the documentary evidence submitted and from the oral representations at the CMD that the parties entered into a Short Assured Tenancy that commenced on 13 January 2017 at a rent of £370.00 per calendar month. The Tribunal was also satisfied that the Respondent has fallen into arrears of rent and that as at 13 April 2022 he owed the Applicant £3300.00. The Respondent had been given an opportunity to submit written representations and to attend the CMD and had chosen to do neither. The Tribunal was therefore satisfied that the Applicant was entitled to an order for payment in the sum of £3300.00.

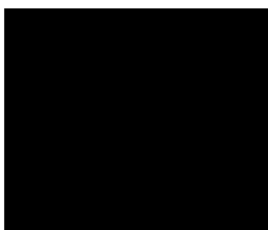
11. The Tribunal considered the submissions of Mr Piggott with regards to the rate of interest sought. The Tribunal took account of the fact that the Tenancy agreement made no provision for the payment of interest on unpaid rent and it was only raised in the application served on the Respondent. In terms of Rule 41A of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”) the Tribunal may include interest when making an order for payment either at the rate specified in the tenancy agreement or at a rate ordered by the Tribunal. In the circumstances and in exercise of its discretion the Tribunal considered that an award of interest at the rate of 2.5% from the date of the decision was appropriate.

Decision

12. Having carefully considered the written representations and documents before it together with the oral submissions and being satisfied it had sufficient information to allow it to make a decision without the need for a hearing determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £3300.00 with interest thereon at the rate of 2.5% per annum from the date of the 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.



Graham Harding
Legal Member/Chair

19 July 2022
Date