



**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/22/4008

Re: Property at 166 High Street, Auchterarder, PH3 1AD (“the Property”)

Parties:

**Enrique Vilaplana, Calle Miami 11 Bajo 5, Edificio Silvia, Torremolinos, Malaga,
29620, Spain (“the Applicant”)**

Antonio Orso, whose present whereabouts are unknown (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

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

1. This is an application by the Applicant for civil proceedings in relation to an assured tenancy in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was an Assured Tenancy (said to be a Short Assured Tenancy) of the Property by the Applicant to the Respondent dated 1 November 2014.
2. The application was dated 1 November 2022 and lodged with the Tribunal the next day. The application sought an order for £3,050 but a further rent statement lodged subsequently showed payments to account, which had reduced the figure to £2,450 by the date of the application. The said arrears were said to have developed since April 2020, predominately due to £350 being made monthly against a passing rent in the lease of £500 due on the 1st of each month. There were said to be 17 months (April 2020 to August 2021) with £150 shortfalls, and then rent of £500 missed altogether in September 2021. A payment of the full £500 was made in October 2021 at which time the Respondent was said to have vacated. This left arrears as £3,050 to conclusion of the Tenancy, and the

Respondent was then said to have made four payments of £150 in May to August 2022, reducing the arrears to £2,450.

The Hearing

3. On 17 April 2023 at 10:00, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, I was addressed by the Applicant’s solicitor, Ian Buchanan, of Buchanan Burton.
4. There was no appearance by the Respondent. The Applicant’s agent stated that no contact had been received from the Respondent whom he described as having “disappeared”.
5. I noted that this was a second scheduled CMD, the first having been discharged due to service being unsuccessful. The Respondent had now received Service by Advertisement for this CMD. The Applicant’s agent confirmed that no potential new address had been identified since the Service by Advertisement was advanced. The clerk confirmed there was no contact from the Respondent, and I was provided with certification of the Service by Advertisement which appeared in order. In the circumstances, having waited until 10:05 to start to CMD, I was satisfied to proceed in the absence of the Respondent. (There was no attempt by the Respondent to dial in, or anyone on his behalf to dial in, by the conclusion of the CMD.)
6. The Applicant’s agent confirmed that the application for payment was still insisted upon in the amount of £2,450. No order for interest or expenses was sought.

Findings in Fact

7. On 1 November 2014, the Applicant let the Property to the Respondent by lease with a start date of 1 November 2014 until 31 October 2015 (“the Tenancy”).
8. Under the Tenancy, the Respondent was to make payment of £500 per month in rent in advance to the Applicant on or before the 1st of each month.
9. The Tenancy concluded on or about 31 October 2021.
10. As of 31 October 2021, there was unpaid rent of £3,050 due by the Respondent to the Applicant in terms of the Tenancy in respect of shortfalls in payment, and a wholly missed payment, for the rental payments due on 1 April 2020 to 1 September 2021.
11. As of 1 November 2022, further to payments to account of the arrears received between 31 October 2021 and 1 November 2022, the arrears due were £2,450.
12. On or about 1 November 2022, the Applicant raised proceedings for an order for outstanding rent due to conclusion of the Tenancy in the sum of £3,050 (subsequently corrected to £2,450).

13. The balance of rent due by the Respondent to the Applicant as at 17 April 2023 remains £2,450.
14. The Respondent has received intimation of the CMD through Service by Advertisement.
15. The Respondent provided no evidence of payment of any part of the said unpaid rent due to 17 April 2023 of £2,450.

Reasons for Decision

16. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. I was satisfied, on the basis of the application and supporting papers, that rent arrears of £2,450 remained outstanding for the period to conclusion of the Tenancy and were thus outstanding at the date of the CMD.
17. In all the circumstances, I was thus satisfied that the necessary level of evidence for such civil proceedings on the sum of £2,450 had been provided and no defence or dispute was made by the Respondent against this figure.
18. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the sum of £2,450 against the Respondent.
19. I noted that this sum related to rent due to conclusion of the Tenancy and no other claim under the lease against the Respondent.

Decision

20. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of the sum of £2,450 to the Applicant.

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.

17 April 2023

Legal Member/Chair

Date