



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/20/2076

Re: Property at 200B Montrose Street, Brechin, DD9 7DZ (“the Property”)

Parties:

Mr Barry Dunlop, Collierhall Farm, Douglas Water, Lanark, ML11 9TU (“the Applicant”)

Mr Paul Gerrard, 9 Alma Terrace, Laurencekirk, AB30 1FL (“the Respondent”)

Tribunal Member:

Martin McAllister (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment for the sum of THREE THOUSAND AND TEN POUNDS (£3,010.00) be made against Mr Barry Dunlop in favour of the Applicants.

Background

This is an application for payment. The application is dated 30th September 2020. There has been previous procedure including a case management discussion which had been intimated on the Respondent by advertisement because the address of the Respondent was unknown. At that case management discussion, which was held on 1st March 2021, the Applicant’s representative indicated that the Respondent’s address was now known and it was determined that the matter should be adjourned to allow personal service on the Respondent.

Attached to the application was:

- (i) Copy of the tenancy agreement for the Property commencing 7 November 2014.
- (ii) Copy rent statement up to 7th August 2020 showing a total sum due of £3,010.
- (iii) Decision of the Tribunal dated 15th July 2020 in respect of an order of payment in favour of the Applicant against the Respondent for the sum of £4,679.32.
- (iv) Eviction order dated 15th July 2020

Preliminary Matters

1. The case management discussion was held by audio conference on 21st April 2021. The Respondent was not present and the Applicant was represented by Mrs Lesley Davie, of Direct Lettings (Scotland) Ltd, the letting agents of the Applicant. The Legal Member outlined the purpose of a case management discussion and the terms of Rules 17 and 18 of the Chamber Rules:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

(c) raising with parties any issues it requires to be addressed;

(d) discussing what witnesses, documents and other evidence will be required;

(e) discussing whether or not a hearing is required; and

(f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

2. The Tribunal noted that the Respondent had been advised of the date of the case management discussion on 19th March 2021 and the Tribunal had the relevant execution of service by sheriff officers which related to that intimation.
3. The Tribunal considers that appropriate notice of the case management discussion has been given to the Respondent.
4. No representations had been received by or on behalf of the Respondent. The appointed time for the case management discussion was 2 pm and by 2.10 pm he had not joined the conference call.

The Case Management Discussion

5. Mrs Davie said that the application is in respect of rent arrears which became due after the previous application for payment had been dealt with and up to the date of the Respondent vacating the Property. She explained that the Respondent had been evicted from the Property on 16th September and that the sum being sought represented rent due up to and including 6th September 2020.

6. Mrs Davie said that her client had been unable to recover any funds following upon the previous order for payment.
7. Mrs Davie referred the Tribunal to the documents lodged with the application.

8. Findings in Fact:

- (i) The parties entered into an assured tenancy for the Property which commenced on 7 November 2014.
- (ii) The rent payable under the tenancy agreement is £430.
- (iii) The outstanding rent as at 6th September 2020 is £7,689.32.
- (iv) The Tribunal made an order of payment against the Respondent on 15th July 2020 for the sum of £4,679.32.
- (v) No payments have been received from the Respondent in respect of the arrears of rent.

Reasons for the Decision

9. The Tribunal made the decision on the basis of the written evidence lodged with the application and the information provided by Mrs Davie.
10. The Tribunal considered Rules 17 and 18 of the Tribunal Rules.
11. The Respondent made no representations and did not participate in the case management discussion. The Tribunal saw no reason for a Hearing to determine the application. There was no defence to the action and the evidence was sufficient to allow the Tribunal to make a decision.
12. In terms of the tenancy agreement, the Respondent is obliged to make payments of rent. There are arrears of £7,689.32 and the Applicant has previously been granted a payment order for the sum of £4,679.32. There is a balance of arrears amounting to £3,010 and this is the sum in the application which the Respondent has had intimation of.

Decision

The Tribunal grants an order against the Respondent for payment of the sum of £3,010.00 to the Applicant constituting arrears of rent due.

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.

M. McA.

**Martin J. McAllister
Legal Member
21 April 2021**