



**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/21/1084

Re: Property at GF1, Ascot, Gracefield, Musselburgh, EH21 6LL (“the Property”)

Parties:

**Mr Alan Weare, Mr Christopher Weare, Wellingtonia, Carberry Gardens,
Musselburgh, EH21 8PY (“the Applicant”)**

**Mr Paul Purdey, formerly residing at GF1, Ascot, Gracefield, Musselburgh,
EH21 6LL and whose current whereabouts are unknown (“the Respondent”)**

Tribunal Members:

Fiona Watson (Legal Member) and Ann Moore (Ordinary 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(s) for
payment of the undernoted sum to the Applicant(s):**

**Sum of THREE THOUSAND SEVEN HUNDRED AND EIGHTY-FIVE POUNDS
AND SEVENTY-ONE PENCE (£3,785.71) STERLING**

- Background
- 1. An application dated 7 May 2021 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 an assured tenancy agreement.

- The Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 19 August 2021 by tele-conference. The Second-Named Applicant, Christopher Weare was personally present and the Applicants were represented by Miss Morrison, TC Young LLP. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Website Advertisement from 14 July 2021 until 19 August 2021, following a failed attempt at service by Sheriff Officers who had found the Property to be unoccupied. The Tribunal was accordingly satisfied that service had been effected in terms of the Rules and that the CMD could proceed in the Respondent’s absence.
3. A separate application by the Applicant seeking a repossession order against the Respondent under Rule 65 of the Rules and under case reference FTS/HPC/EV/21/1083 was heard at the same time.
4. The Applicant moved for the order for payment to be granted as sought. The parties had entered into an Assured Tenancy Agreement which commenced on 13 May 2019. It was submitted that the Respondent had failed to make payment of rent and had fallen into arrears amounting to £4,708.79. The original agreed rent under the agreement was £480 per month and it was submitted that this was increased to £520 per month on 26 June 2018. No evidence of intimation of rent increase was lodged with the application, nor could such proof of intimation be found. Removing the supposed rent increase and calculating the arrears on the basis of a monthly rent of £480 throughout, the arrears outstanding at the date of the CMD were £3,785.71. Miss Morrison thereafter amended her motion to seek an Order for payment in the reduced sum of £3,785.71.

- Findings in Fact

5. The Tribunal made the following findings in fact:
 - (a) The parties entered into an Assured Tenancy Agreement (“the Agreement”) which commenced 13 May 2009;
 - (b) In terms of the Agreement, the Respondent was obliged to pay a monthly rent of £480 to the Applicant;
 - (c) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £3785.71.
 - (d) The Respondent no longer appeared to reside in the Property.

- Reasons for Decision

6. 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 £480 per month under the Agreement between the parties and had failed to do so. He had accrued arrears amounting to £3,785.71 and which fell lawfully due to be repaid to the Applicant.

7. Accordingly, the Applicant was entitled to the Order for Payment as sought.

- Decision

8. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of THREE THOUSAND SEVEN HUNDRED AND EIGHTY-FIVE
POUNDS AND SEVENTY-ONE PENCE (£3,785.71) 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.

Legal Member/Chair

Date: 19 August 2021