



**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/21/1299

Re: Property at 2/R 30 Gallowgate Street, Largs, KA30 8LX (“the Property”)

Parties:

**Mr Norman Henderson, C/O Acre Lettings Ltd, 6 Stanlane Place, Largs, KA30
8DA (“the Applicant”)**

**Miss Jennifer Findlay, 2/R 30 Gallowgate Street, Largs, KA30 8LX (“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 in the sum of £3325.00.**

Background

1. By application dated 31 May 2021 the Applicant’s representatives Acre Lettings Limited applied to the Tribunal for an order for payment by the Respondent in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representatives provided the Tribunal with a copy of a management agreement, an email from the Applicant, copy AT5, Short Assured Tenancy Agreement, arrears correspondence, Notice to Quit, Section 33 Notice and rent history statement in support of the application.
2. By Notice of Acceptance dated 14 June 2021 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 sent to the Applicant's representatives by post and was served on the Respondent by Sheriff Officers on 22 June 2021.

The Case Management Discussion

4. A CMD was held by teleconference on 22 July 2021. The Applicant did not attend but was represented by Miss Andrea Bell from the Applicant's representatives. The Respondent did not attend and was not represented. Miss Bell advised the Tribunal that the Respondent had been in contact with her office to say that she was not long out of hospital and did not wish to attend the CMD. The Respondent had not contacted the Tribunal administration to advise she was unable to attend. The Tribunal being satisfied that the Respondent had been given proper notice of the CMD determined to proceed in her absence.
5. Miss Bell advised the Tribunal that the Respondent had contacted her office in the morning to say that she had not completed any of the forms served on her but that it was her intention to pay something towards the arrears. Miss Bell went on to say that the Respondent had said that she had been offered local authority housing and that she would be vacating the property but did not have a date for her removal. Miss Bell said the Respondent had offered to pay off the debt at the rate of £25.00 per month which was not acceptable to the Applicant as it would take in excess of 13 years to clear the amount owed. She said even at the rate of £100.00 per month it would take over 3 years to clear the debt.
6. Miss Bell explained that she had tried to assist the Respondent as much as she could and had contacted the local authority and the Respondent had now received housing benefit of £391.24 that had been paid for one month but as the monthly rent was £475.00 the arrears continued to increase and the sum now due was £3883.76. Miss Bell confirmed she had not sought to amend the sum claimed as she had not been sure as to when she should do this. She confirmed that as far as she was aware the Respondent did not dispute the amount of rent that was due. The Tribunal explained that in the absence of an amendment properly intimated in terms of Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 the Tribunal could not grant an order for any increased amount at the CMD. Miss Bell asked the Tribunal to grant an order for payment in the sum contained in the application namely £3325.00 and indicated she would submit a further application in due course once a final figure had been ascertained at the end of the tenancy.

Findings in Fact

7. The parties entered into a Short Assured Tenancy agreement that commenced on 8 June 2017 at a rent of £475.00 per calendar month.
8. As at 31 May 2021 the Respondent was due rent to the Applicant in the sum of £3325.00.

Reasons for Decision

9. The Tribunal was satisfied from the documents produced and the written and oral submissions of the Applicant's representatives that the parties had entered into a Short Assured Tenancy Agreement that had commenced on 8 June 2017 and continued in place on a month-to-month basis. The Tribunal was satisfied that the Respondent had fallen into arrears of rent and that as at 31 May 2021 was due to pay the Applicant £3325.00 and that this amount remained outstanding.
10. As the Applicant's representative had not sought to amend the sum claimed in accordance with the terms of Rule 14A it was not appropriate to allow the amendment at the CMD without a continuation for intimation to the Respondent.
11. Although the Respondent had apparently made an informal offer to the Applicant's representative to repay the debt at the rate of £25.00 per month, she had not submitted an application for a Time to Pay direction. In any event it would take some 13 years to repay the debt at this rate. In the circumstances the Tribunal did not think it appropriate to consider any application for time to pay at this time.

Decision

12. The Tribunal was satisfied that it had sufficient information before it to make a decision without the need for a hearing and determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £3325.00.

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.

G.H.

**Graham Harding
Legal Member/Chair**

**22 July 2021
Date**