



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) 2014.**

**Chamber Ref: FTS/HPC/CV/22/2788**

**Re: Property at 66 Cambuslang Road, Rutherglen, Glasgow, G73 1BQ (“the Property”)**

**Parties:**

**Mrs Jacqueline Thomas, 201 Swanston Street, Dalmarnock, Glasgow, G40 4HG (“the Applicant”)**

**Mr Graeme Ross Macaskill, 2 Balvaird Crescent, Rutherglen, G73 2PZ (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondents for £2397.65.**

## **1. Attendance and Representation**

This was a Case Management Discussion to consider the application dated 7<sup>th</sup> August 2022 brought before the First-tier Tribunal for Scotland Housing and Property Chamber for civil proceedings in respect of a Short Assured Tenancy under section 16 of the Housing (Scotland) Act 2014. The discussion took place by teleconference.

The Applicant was present alongside her daughter Danielle Thomas.

The Respondent was not present. The Respondent had been served by Sheriff Officer on 30<sup>th</sup> November 2022.

## **2. Preliminary Matters**

The Respondent was not present. The Applicant said there had been no contact for a considerable time since Feb 2022. The Applicant had carried out a trace through Sheriff Officers and found that the Respondent was residing at his mother's address.

There were no other preliminary matters.

### **3. Case Management Discussion**

The Applicant explained that a Notice to Quit had been served on the Respondent who stopped paying rent. He had paying paying renting advance and had credit so he allowed his account to go to zero and then made one further payment only. The rent arrears as per the bank statements lodged and the rent statement was at 10<sup>th</sup> January 2022 £2550.

The Respondent sent an email on 9<sup>th</sup> February 2022 to say he had left the flat. The Applicant explained that she attempted to contact the Respondent after the tenancy ended but he never answered phone calls and letters. She then had to trace him to his mother's address.

The Applicant said an application was made to Safe Deposit Scotland for return of the deposit for cleaning and decoration. This was successful and the Applicant lodged the paperwork which showed that a proportion of same was to be applied to the rent arrears. The amount of £242.35 was deducted. The Sheriff Officers trace fee of £90 was also sought and vouching lodged. The Applicant sought a payment order of £2397.65

### **4. Findings in Fact**

1. The Tribunal was satisfied that a decision could be made in the absence of the Respondents at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondents had been served personally by Sheriff Officer and had not provided any written representations or appeared at the Hearing. The Applicant confirmed that sheriff officers had been instructed by her to find the service address of the Respondents.
2. The Applicant and the Respondent entered into a Short Assured tenancy on 10<sup>th</sup> February 2017. A copy of same was lodged.
3. The rent per calendar month due was £510.
4. The Applicant is the heritable proprietor of the property.
5. A rent statement lodged showed rent arrears of £2550 and the Tribunal found in fact based on the evidence before it that the Respondents were liable for rent of £2550 minus the sum received towards arrears from the deposit of £242.35.

6. The Respondent did not reply to telephone calls and contact and did not provide a forwarding address and the Applicant instructed Sheriff Officers at a fee of £90.
7. The Respondents owe to the Applicant in terms of the said tenancy the sum of in total of £2397.65.

## **5. Reasons for Decision**

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the respondent was in arrears of rent lawfully due and a Rent Statement for the property was lodged. Rent owed from same minus a deduction for return of some deposit monies for rent arrears was £2307.65. The Respondent did not leave a continuing address and did not respond to communication and as such the Applicant incurred a charge of £90 to trace him with vouching lodged. Accordingly the Tribunal granted an Order for payment for the sum of £2397.65 against the Respondents.

## **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

Karen Kirk

Legal Member/Chair

13 January 2023  
Date

