



**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/19/3688**

**Re: Property at 160 Aitken Road, Glenrothes, Fife, KY7 6SG (“the Property”)**

**Parties:**

**Mr John Wykes, PO Box 10, 69 Crossgate, Cupar, Fife, KY15 5AS (“the Applicant”)**

**Ms Vicky Brown, 282 Muirfield Drive, Glenrothes, Fife, KY6 2PY (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment is granted for the amount of £1742.08 (ONE THOUSAND SEVEN HUNDRED AND FORTY POUNDS AND EIGHT PENCE) plus interest at 3% per annum.**

**Background**

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £1842.08 plus interest at 8% per annum in terms of s16 of the Housing (Scotland) Act 2014.
2. A Case Management Decision (“CMD”) was set for 22<sup>nd</sup> January 2020. At the CMD it was noted that only one tenant was detailed as part of the application. As the tenants are jointly and severally liable the application should have been raised against both tenants. The CMD was adjourned to allow for Mr Andrew Roberson be added to the application and served with the appropriate paperwork.

3. A CMD was held on 5<sup>th</sup> March 2020. The Applicant was represented by Ms Dionne Brady of Charles Wood & Son solicitors. The Respondent was present and represented herself. The Respondent accepted full responsibility for the arrears. She was happy for Mr Andrew Robertson not to be a party to the case as he had no part in accruing the arrears. The parties agreed a repayment schedule of £50 per four weeks until she returned to work from maternity leave. The Respondent would then pay £100 per four weeks from mid June when she returned to work. The CMD was continued to allow for payments to be made at the agreed rate and for the Respondent to submit a Time to Pay Order prior to the next CMD.

### Case Management Discussion

4. A Case Management Discussion ("CMD") was held on 17<sup>th</sup> July 2020 at 10am by teleconference due to Covid 19 restrictions. The Applicant did not attend in person but was represented by Ms Dionne Brady, solicitor, Charles Wood and Son solicitors. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing.
5. Ms Brady informed the Tribunal that there had been only one payment made on 2<sup>nd</sup> April further to the payment made on the day of the last CMD. There has been no contact made by the Respondent.
6. The Tribunal noted that decree was to be against the Respondent only and not Mr Andrew Robertson who had initially been cited as joint respondent. The Respondent had confirmed, at the previous CMD, that Mr Robertson had no part of the arrears and that he was not to be a part of the action and that the arrear were solely due by her.
7. Ms Brady confirmed the outstanding amount due was now £1742.08 and was now seeking decree for this amount. The Tribunal noted that at the previous CMD the rate of interest was agreed as 3% per annum. Decree for the amount sought was granted.

### Findings in Fact

8. The parties entered into a Short Assured Tenancy on 24<sup>th</sup> September 2009 for a 6 months period until 24<sup>th</sup> March 2010 and on a month to month basis thereafter. The rent payments of £500 were due each month. The Respondent did not maintain the rent payment. The Respondent has since left the Property.
9. The Housing and Property Chamber received an Application on 15<sup>th</sup> November 2019.
10. The Respondent accepted full responsibility for the arrears at the CMD on 5<sup>th</sup> March 2020.

11. A payment agreement was entered on 5<sup>th</sup> March 2020 but the Respondent failed to adhere to it.
12. There are no outstanding Housing Benefit issues or issues of reasonableness.
13. The arrears due to the Applicant amounts to £1742.08.

#### Reasons for Decision

14. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Respondent accepted full liability for the arrears at the CMD on 5<sup>th</sup> March 2020. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent had persistently not paid the rent and was in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £1742.08 plus interest of 3% per annum against the Respondent.

#### Decision

The Applicant is entitled to for an order of payment of £1742.08 plus interest of 3% per annum against the Respondent. The Order was granted against the Respondent

#### **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. M**

**21<sup>st</sup> July 2020**

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**Legal Member/Chair**

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**Date**