



**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/19/3947

Re: Property at 80 Fairhaven, Kirn, PA23 8NS (“the Property”)

Parties:

Mr Paul Morris, 3 Violet Grove, 96 George Street, Dunoon, PA23 8FP (“the Applicant”)

Ms Bernadette Cairns and Ms James McCluskey, present whereabouts unknown (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £7,990.

Background

By application, received by the Tribunal on 12 December 2019, the Applicant sought an Order for Payment against the Respondent in respect of rent that had become lawfully due in respect of the Property, but which remained unpaid. The sum sought was £7,990.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 10 August 2018 at a rent of £470 per month. The Applicant was unable to provide a Rent Statement as no rent had ever been paid. The Applicant stated that the Respondent had paid no rent from 10 August 2018 up to the date of the application, at which point arrears of 17 months had built up (£7,990).

On 30 December 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 20 January 2020. The Respondent did not make any written representations to the Tribunal.

The Case Management Discussion scheduled for 30 January was postponed, as sheriff officers had been unable to serve papers on the Respondent, who, they had ascertained, was no longer living at the Property and whose whereabouts were unknown. The Case Management Discussion was rescheduled to 10 March 2020. Service on the Respondent was by advertisement on the Tribunal's website between 4 February and 10 March 2020.

Neither Party appeared or was represented at the Case Management Discussion on 10 March 2020 and the Tribunal decided to postpone it again, due to the then current situation regarding the COVID-19 outbreak.

Case Management Discussion

A Case Management Discussion was held by way of a telephone conference call on the morning of 7 August 2020. The Applicant participated in the conference call. The Respondent did not participate and was not represented. The Tribunal noted a Certificate that service on the Respondent had been effected by advertisement on the Tribunal's website between 23 June and 7 August 2020.

The Applicant told the Tribunal that the Respondent had never paid any rent. The first payment should have come from Housing Benefit, which is paid in arrears, but he understood that the Respondent's application for Housing Benefit had been refused, so no rent had ever been paid. He asked the Tribunal to make the Order for Payment without a Hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it could decide the application without a Hearing.

The Tribunal was satisfied that the amount sought had become lawfully due by the Respondent to the Applicant and remained unpaid.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £7,990.

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.

George Clark

07 August 2020

Legal Member/Chair

Date