

**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/20/0125

Re: Property at 5C Leven Walk, Craigshill, EH54 5AL (“the Property”)

Parties:

Miss Laura Halil, 35 Stoneybank Road, Musselburgh, EH21 6HJ (“the Applicant”)

Mr Francis Leggat, 5C Leven Walk, Craigshill, EH54 5AL (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order should be granted for payment in the sum of TWO THOUSAND ONE HUNDRED AND TWENTY FIVE POUNDS (£2125.00)

Background

1. By application dated 15 January 2020, the applicant sought an order for payment under Section 16 of the Housing (Scotland) Act 2014 (“the Act”) and in terms of rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. On 5 March 2020 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 14 July 2020 and appropriate intimation of that hearing was given to both parties. At the conclusion of the CMD a further continued CMD was set to take place on 14 August 2020.

The Case Management Discussions

3. The Case Management Discussion (CMD) took place on 14 July 2020 via telephone case conference the applicant and the respondent took part in the telephone case conference.
4. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the parties with regard to the application.
6. The tribunal issued a Discussion note which set out what had occurred during the CMD. Reference is made to that note. Effectively at the CMD, the respondent disputed the existence of the rent arrears which were claimed to exist by the applicant, and the respondent was given time to produce evidence that payments had been made.
7. A further CMD took place on 14 August 2020, the applicant took part in that CMD. The respondent did not.
8. The applicant explained that she had received no contact from the respondent. He had failed to make the rental payments due both in July and August. He had failed to produce the evidence required by the tribunal
9. The applicant asked that the tribunal grant a payment order in the sum of £2125 being the arrears amount which existed at the date of the initial CMD and which had been discussed at that CMD

Findings in Fact

10. The Applicant is the registered owner of the property. She and the Respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 5 October 2012
11. The tenancy was a short assured tenancy in terms of the Housing (Scotland) Act 1988
12. The agreed monthly rental was £425
13. Arrears had started to accrue from September 2019
14. At the date of the lodging of the application arrears amounted to £1700.00
15. At the date of the initial CMD arrears had increased to £2125. The tribunal was content to allow the applicant to amend the application to reflect the increased

arrears in terms of rule 13 (1) (b) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

16. The sum claimed in terms of the application was thus £2125.00 and this sum was still owed at the date of the further CMD. The actual amount of arrears at the date of the second CMD was in excess of £2125

17. The basis for the order for Payment was accordingly established

Decision

18. The order for payment of arrears is granted. The tribunal is satisfied, based on the evidence presented on behalf of the applicant which is reflected in the Findings in Fact and the notes of the CMDs set out above, that the sums claimed by way of rent arrears of £2125.00 are outstanding and are due to be paid by 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.

Jim Bauld



Legal Member/Chair

14/08/2020

Date