



**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/21/0081**

**Re: Property at 4 Stewart Place, Carluke, ML8 5SR (“the Property”)**

**Parties:**

**Mrs Joyce Brown, 16 Lake Avenue, Lanark, ML11 9BQ (“the Applicant”)**

**Mr Steven Galloway, 4 Stewart Place, Carluke, ML8 5SR (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal Member) and Elizabeth Currie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £2,961.76 be granted.**

**Background**

1. This was a case management discussion to consider the application made by the Applicant dated 11<sup>th</sup> January 2021 for an order for rent arrears in terms of Rule 70 of the Tribunal Rules. The CMD took place by teleconference as a result of the current requirement for social distancing.
2. The Applicant is the Landlord in a Short Assured Tenancy with the Respondent who is the tenant. The Applicant has title and interest by virtue of owning the property.
3. The Applicant was present on the teleconference herself the Respondent did not attend but intimation of the proceedings had been served on him by sheriff officer dated 4<sup>th</sup> February 2021.

4. The Applicant had lodged and the Tribunal had sight and considered the following documents:-
  - a. Application for payment of rent arrears dated 11<sup>th</sup> January 2021
  - b. Copy Tenancy Agreement for the Property dated 4<sup>th</sup> May 2016
  - c. Copy AT5 Notice dated 4<sup>th</sup> May 2016 at 11.10
  - d. Rent Statement from Remax Letting Agent

## **The Discussion**

5. The Legal Member explained the purpose of the CMD and advised that the Tribunal could do anything at a case management discussion which it may do at a hearing.
6. The Applicant attended and was not represented. The Tribunal waited an additional 10 minutes but the Respondent did not attend and was not represented. Intimation of the teleconference the time and date of it and how to dial in were served on the Respondent by sheriff officer on 4<sup>th</sup> February 2021 and the Respondent has made no written representations.
7. The Applicant explained that she was seeking an order for payment of the outstanding arrears of rent. She advised that apart from the first few months of the tenancy the tenant has been consistently late in payment of his rent, and the last payment was in June 2020 but he has not paid anything since. She explained that her agents Remax have written and phoned the Respondent on numerous occasions and he has not responded to any attempts to discuss the rent after being told in July that the landlord would not withdraw the notice to quit and S33 notice. She believes he applied for Universal Credit but despite attempts by Remax to have any universal credit paid directly she confirmed that they had not been paid any and were indeed told on one occasion by Universal Credit that there was no money to be given them.
8. The Applicant advised that the rent arrears have increased since she made the application and now stand at £3621.10. She also advised that one small payment from Universal Credit was unexpectedly received last week of £15.19 but there is no covering letter or explanation with it. The current rent arrears include a deduction of that sum. She also advised that she believes the tenant is still living in the Property although neither she nor her agents have been in the Property for nearly a year.
9. The Legal Member of the Tribunal advised that 14 days written notice has to be given of any motion to increase the payment sought and as this has not been done and the Respondent does not have due notice of any further sums being sought the Tribunal could only consider and grant an order, if it found the facts established, for the original sum claimed. If the Applicant wished to increase the sum she is claiming the Tribunal would consider granting an adjournment of the CMD to allow the motion to increase the sum sought to be made. The Applicant indicated after considering this that she wished to ask for an order for

payment of the original sum claimed of £2,961.76 today as she did not know when the tenant may leave the Property.

10. She moved the Tribunal to grant the order today because the tenant is now in substantial arrears and has made no contact whatsoever to discuss the situation with her or her agents despite numerous attempts to engage him. The Tribunal noted that copies of such letters have been lodged along with the application for eviction.

### **Findings in Fact**

11. The Applicant and Respondent have entered into a short assured tenancy of the Property for a period of 6 months from 4<sup>th</sup> May 2016 to 4<sup>th</sup> November 2016.
12. The Applicant is the Landlord and served a Form AT5 on the Respondent who is the Tenant prior to the creation of the tenancy.
13. The Tenancy is a Short Assured Tenancy in terms of the Housing (Scotland) Act 1988.
14. The rent is £ 425 per calendar month.
15. The Respondent last paid the sum of £550 on 30<sup>th</sup> June 2020 towards rent due for May 2020 and part of June 2020. He has not paid any further sums.
16. The only other sum received to date has been the sum of £15.19 received from universal credit in the week beginning 1<sup>st</sup> March 2021.
17. The Arrears of rent due to 11<sup>th</sup> January 2021 are £2961.76.
18. The Respondent has been served notice of this application and has made no representations in relation to this Application.

### **Reasons for Decision**

19. The Applicant has entered into a Short Assured Tenancy with the Respondent.
20. The Tribunal considered carefully the submissions from the Applicant and the written evidence it had before it. The Tribunal accepted the submission from the Applicant that the tenant has a history of late payments, stretching back to September 2016, that he did not initially pay the rent due in May 2020 and his last payment was made on 30<sup>th</sup> June 2020 when he paid the rent due for May and part of June's rent but has not paid anything since and the rent due and outstanding on 11<sup>th</sup> January when she made the application is £2,961.76.
21. The Applicant has lodged copies of numerous letters from her agents Remax to the Respondent asking him to make contact to discuss the rent arrears and

providing the Respondent with information of where he can get advice and support. Ms Brown advised that she would be willing to discuss a payment plan with him but that he has not communicated at all with Remax with regard to rent arrears although he has let tradesmen in to deal with urgent repairs. She confirmed that this has been very frustrating and difficult for her and she has not seen the Property for nearly a year as well as having the arrears build up.

22. The Tribunal is able to make any order at a case management discussion as it can after a Hearing. The Respondent has not made any written representations nor has he attended this CMD so there are no representations by him that the Tribunal can take into account.

23. The Tribunal accepts the submissions and written evidence from the Applicant who they found credible and convincing that the Respondent owes rent to the amount of £2961.76 up to 11<sup>th</sup> January 2021 and grants an order for that amount.

## **Decision**

An order for payment of the sum of £2961.76 is granted.

## **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.**

**Jan Todd**

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**Legal Member/Chair**

**8<sup>th</sup> March 2021**  
**Date**