



**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/19/3687

**Re: Property at Rashiehall Bungalow, Balbeggie, Perth, PH2 6AS (“the
Property”)**

Parties:

**Messrs I R Douglas, 5 Brimmond Drive, Westhill, Aberdeen, AB32 6SZ (“the
Applicant”)**

**Mr Stephen Wilkie, Mrs Naomi Wilkie, UNKNOWN, UNKNOWN, UNKNOWN,
UNKNOWN (“the Respondent”)**

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for payment is granted to the amount of
£6930.90 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 £6930. in terms of s16 of the Housing (Scotland) Act 2014.
2. The Tribunal had before it the following documents:
 - a. Application dated 15th November 2019 and received by the Tribunal on 18th November 2019;
 - b. Tenancy agreement between the parties signed 28th November 2012 with the commencement of the tenancy on 28th November 2019 for a

12 months period until 27th January 2013 and on a month to month basis thereafter;

- c. Form AT5 signed by the parties on 28th January 2012;
 - d. Form AT6 dated 23rd October 2019 on grounds 8, 11 and 12;
 - e. Text messages between parties;
 - f. Copy of the title deeds numbered Perth64285;
 - g. Rent account 28th January 2012 – 28th September 2019;
 - h. Notice of Acceptance of Application was signed on 27th November 2019.
3. On 17th December 2019, all parties were written to with the date for the Case Management Discussion (“CMD”) of 20th January 2020 at 2pm at Inveralmond Business Centre, Auld Bond Road, Perth. The letter also requested all written representations be submitted by 7th January 2020.
 4. On 20th December 2019, sheriff officers wrote to the Housing and Property Chamber advising that they had attempted to serve the letter upon the Respondents on 18th December 2019 but had not been able to execute service.
 5. The CMD on 20th January 2020 was adjourned to 4th March 2020 at 11.30am at Inveralmond Business Centre, Auld Bond Road, Perth.
 6. Service by advertisement was undertaken upon the Respondent and carried out on the First-tier Tribunal for Scotland Housing and Property Chamber website between 29th January 2020 and 4th March 2020.

Case Management Discussion

7. A CMD was held on 4th March 2020 at 11.30am at Inveralmond Business Centre, Auld Bond Road, Perth. The Applicant was present and was represented by Mr Blair MacDonald, local agent for Lindsays solicitors. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make representations in advance of the hearing. Mr MacDonald informed the Tribunal that the arrears had increased to £7841. 92. He was still seeking the original sum of £6930.90 as the increase had not been intimated upon the Respondents. The Applicant advised the he had last had contact from the Respondents when they moved out of the Property on 19th December 2019. He had emailed them to ask that they confirm that they left the Property. The Respondents did confirm this but were not forthcoming with an offer to pay. There has been no offer to pay. The Applicant believes that there are no outstanding Housing Benefit or Universal Credit Housing Element issues.
8. Mr MacDonald raised that the amount sought was to have interest at 8% per annum included. The Tribunal noted that this was not in the lease. This was agreed by both the Applicant and Mr MacDonald. As he was a local agent he took instructions from his Principal. The Tribunal considered that 3% was an

appropriate rate of interest. Mr MacDonald had been instructed for 4% from his Principals agent but accepted 3%.

Findings in Fact

9. The parties entered into a Short Assured Tenancy on 28th January 2012 with the commencement of the tenancy on 28th January 2012 for a 12 months period until 27th January 2013 and on a month to month basis thereafter. The lease was signed on 28th January 2012. An AT5 was signed by both parties on the same date as the lease. The rent payments of £780 are due by the 28th day of each month.
10. The Housing and Property Chamber received an Application on 18th November 2019.
11. The Respondents have persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £7841.92, beyond that which was sought in the application.
12. There are no outstanding Housing Benefit issues.
13. The arrears due to the Applicant amounts to £6930.90.

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 Applicant has lodged a rent statement for the period 28th January 2012 to 28th September 2019 in which payments have been missed to amount to £6930.90 in rent arrears. 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 were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £6930.90 plus interest of 3% per annum against the Respondent.

Decision

15. The Applicant is entitled to for an order of payment of £6930.90 plus interest of 3% per annum by 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.

Gabrielle Miller

4th March 2020

Legal Member/Chair

Date