



**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/19/3874

Re: Property at 155 Clepington Road, Dundee, DD3 7SN (“the Property”)

Parties:

Mr Darren Palmigiani, 155 Clepington Road, Dundee, DD3 7SN (“the Applicant”)

Ms Leonie Brett, 1/0 59 Main Street, Dundee, DD3 7EY (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application for a payment order dated 4th December 2019 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant seeks payment of arrears in rental payments of £855.20 due by the Respondent in respect of her tenancy of the Property.

The Applicant provided with his application copies of the short assured tenancy agreement, rent arrears statement, and copy text messages between the parties in June 2019 after the departure of the Respondent from the Property.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 9th January 2020, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 7th February 2020 at Caledonian House, Greenmarket, Dundee. The Applicant did not appear, but was represented by Mrs Royle, solicitor. The Respondent did not appear, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was invited by Mrs Royle with reference to the application and papers to grant an order for payment of the sum of £855.20 with interest thereon. She explained that the Respondent had left the Property at some date in the early part of June 2019, but that the Applicant only sought rental up to the end of May 2019.

The Respondent had accumulated arrears of rent in the sum of £855.20 as shown on the rent arrears statement provided. In terms of clause 2 of the tenancy agreement, interest may be charged on arrears of rental from the date upon which the rent payment fell due until payment at the rate of 4% above The Royal Bank of Scotland Base Lending Rate from time to time.

Statement of Reasons

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental and damages against a tenant (such as the Respondent) under an assured tenancy such as this.

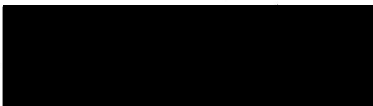
The Tribunal considered the terms of the short assured tenancy agreement, the copy rent arrears statement, and Mrs Royle's submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicant in respect of rent arrears of £855.20, with interest on that sum from the date upon which the rent payments fell due until payment at the rate of 4% above The Royal Bank of Scotland Base Lending Rate from time to time.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £855.20, with interest on that sum from the date upon which the rent payments fell due until payment at the rate of 4% above The Royal Bank of Scotland Base Lending Rate from time to time.

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.



07/02/20

Legal Member/Chair

Date