



**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/22/2804

**Re: Property at 2 Stables Cottages, Coodham, Symington, Kilmarnock, KA1 5PH
("the Property")**

Parties:

**Mrs Suzanne McNally or Cichon, c/o Woodneuk House, Gateside, Glasgow, G78
1EP ("the Applicant")**

**Mr Alastair Treymaine, 2 Stables Cottages, Coodham, Symington, Kilmarnock,
KA1 5PH ("the Respondent")**

Tribunal Members:

George Clark (Legal Member) and Angus Lamont (Ordinary Member)

Decision

**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 Eleven Thousand Five Hundred and Ninety Pounds and forty-one Pence.**

Background

By application dated 10 August 2022, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £3,500.

The application was accompanied by a copy of a Private Rented Tenancy Agreement between the Parties commencing on 7 January 2021 at a monthly rent of £700, and a Rent Statement showing arrears as at 7 October 2021 of £3,500.

On 12 December 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 2 January 2023. The Respondent did not make any written representations to the Tribunal. The Tribunal's letter with the case papers was served on the Respondent by sheriff officers on 16 December 2022.

On 19 January 2023, the Applicant's representatives provided an updated rent statement showing arrears as at 7 December 2022 of £11,590.41 and requested leave to amend the application to increase the amount sought to that sum.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 8 February 2023. The Applicant was represented by Kirstie Donnelly of TC Young LLP, solicitors, Glasgow. The Respondent was also present. The Respondent accepted that no rent had been paid since the date of the application. He acknowledged that the sum sought was unpaid, but stated that he had been withholding rent, due to the condition of the Property and that it was held in a separate account. The Applicant's solicitor stated that the Applicant's letting agents had never been advised by the Respondent that he was withholding rent and that it was being kept in a separate account, and that the Respondent had not provided any proof of his claim.

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 to enable it to decide the application without a Hearing.

The Tribunal noted that the Respondent had provided no evidence in support of his claim that he had decided to withhold rent or that it was being held in a separate account and decided that the sum sought, as amended to £11,590.41, had become lawfully due by the Respondent to the Applicant.

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.

G. Clark

Legal Member/Chair

8 February 2023
Date