



**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/23/0145**

**Re: Property at 15 Roseburn Drive, Cumnock, KA18 1DH (“the Property”)**

**Parties:**

**Mr James Greer, 16 Andrew Hardie Drive, Alloa, FK10 2JA (“the Applicant”)**

**Laura McLatchie, 15 Roseburn Drive, Cumnock, KA18 1DH (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member) and Helen Barclay (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum of £2500.00 was lawfully due by the Respondent and granted an order for payment of that sum by the Respondent to the Applicants.**

**Background**

1. By an application dated 13<sup>th</sup> January 2023 (“the Application”), the Applicants sought an order for payment of £2500.00 from the Respondent in respect of rent arrears.
2. A copy of the Application, along with a letter from the Tribunal giving details of a proposed Case Management Discussion, was served upon the Respondent by Sheriff Officers on 21<sup>st</sup> July 2023.
3. A Case Management Discussion (“CMD”) took place by teleconference on 18<sup>th</sup> August 2023. The Applicant was represented at the CMD by Miss Kirsten Barlow of Messrs D.W. Shaw solicitors.

4. The Respondent did not join the CMD call. The Respondent has not made any written representations to the Tribunal in advance of the CMD. The Respondent had been intimated with the date and time of the CMD by Sheriff Officers. The Tribunal was satisfied that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”) had been duly complied with and proceeded with the application in accordance with rule 29 of those Procedure Rules.
5. At the CMD the Tribunal was able to consider:
  - a. The terms of the tenancy agreement between the parties. The tenancy agreement was a Private Residential Tenancy Agreement in relation to the Property. The tenancy between the parties had commenced on or around 20<sup>th</sup> August 2020. The monthly rent due in terms of the tenancy agreement between the parties was £500.00.
  - b. A Statement of rent and arrears had been lodged with the Application showing total rent arrears due by the Respondent as of 1<sup>st</sup> January 2023 in the sum of £2625.00.

Further Information:

6. The Applicants’ representative explained to the Tribunal that the Respondent had continued to accrue rent arrears. The Applicant had lodged an updated rent statement shortly before the start of the CMD. That statement confirmed that, by 1<sup>st</sup> August 2023, the rent arrears accrued by the Respondent had increased to £3068.22. The Tribunal was not able to consider granting an order for the higher amount of rent arrears due, as at the date of the CMD, as no application had been made to amend the application to increase the sum craved, in advance of the CMD. The Tribunal therefore were restricted to considering the amount claimed in the Application in the sum of £2500.00.
7. Under rule 17(4) of the Procedure Rules the First-Tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Applicants asked the Tribunal to grant an order for payment against the Respondent in favour of the Applicant for the sum of £2500.00 (the amount detailed in the Application).

Findings in fact, and in fact and law; reasons for decision

8. The Applicant let the Property to the Respondent in terms of a written tenancy agreement which commenced on or around 20<sup>th</sup> August 2020. The monthly rent due in terms of the tenancy agreement between the parties was £500.00.
9. The Respondent has accrued arrears of rent under the terms of her tenancy agreement in relation to the property in a sum in excess of £2500 as at 1<sup>st</sup> August 2023.
10. As at the date of the CMD the sum of £2500.00 remains due and owing by the Respondent to the Applicant in respect of arrears of rent incurred by the Respondent in respect of her occupancy of the property.

Decision

11. The Tribunal accordingly granted an order for payment by the Respondent to the Applicant in the sum of £2500.00.

**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.**

**Andrew Cowan**

**18<sup>th</sup> August 2023**

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**Legal Member/Chair**

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**Date**

