



**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/18/1049

**Re: Property at 82 Cardowan Road, Carntyne, Glasgow, G32 6QP (“the
Property”)**

Parties:

**Mr Stephen David McCullagh, 105 Gartcraig Road, Riddrie, Glasgow, G33 2RY
 (“the Applicant”)**

**Mrs Elizabeth Dickson, 82 Cardowan Road, Carntyne, Glasgow, G32 6QP (“the
Respondent”) represented by Miss S Johnston, Messrs Brown & Company,
LSA, Fleming House, 134 Renfrew Street, Glasgow**

Tribunal Members:

Patricia Pryce (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be dismissed.**

- **Background**

This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations (“the Rules”). The Applicant is seeking an order for payment of unpaid rent which he states the Respondent is due to pay. However, the application did not state the amount that the Applicant was seeking. The Tribunal had before it an application which consisted of documents received between 3 and 27 May 2018. This included what bore to be a statement of unpaid rent and housing benefit received. All of the papers had been intimated to the Respondent.

- **The Case Management Discussion (“CMD”)**

Both parties attended at the hearing. The Respondent was represented by Miss Johnston.

- **Preliminary Issues**

The Respondent's solicitor raised a preliminary matter that the application failed to state the sum sought. Although there was a statement or record of housing benefit received and a shortfall of rent apparently remaining outstanding, the application was fundamentally flawed as it did not contain the specific sum sought and this was a matter which, in terms of fair notice, the Respondent was entitled to know.

The second issue raised as a preliminary matter was that the papers received by all (including the Tribunal) were not clear. Although this bore to be an application proceeding under Rule 70, there was also mention in the papers of Rule 66 (recovery of possession) and there was further documentation within the papers which appeared to relate more to the recovery of possession issue.

The solicitor therefore submitted that the Application should be dismissed.

The Applicant agreed with the Respondent's solicitor's submission. He accepted that his Application form did not contain the specific sum he was seeking from the Respondent. He also accepted that the papers were confusing. He clarified that he had been seeking payment only in terms of the present Application as he has raised a new Rule 66 Application.

The Tribunal offered the Applicant the opportunity to continue the CMD but he submitted that he would rather submit a fresh Application for payment which would also allow him to take account of further monies which he believed were due. To that end, the Applicant advised that he was content to consent to the Respondent's request for dismissal of the present Application.

- **Reasons for Decision**

The Tribunal accepted the preliminary submission by the Respondent's solicitor. The Respondent is entitled to fair notice of the sum that was being sought and this was fundamentally not clear from the Application. In addition, the Tribunal agreed that the papers provided to both the parties and the Tribunal were not entirely clear about what was being sought in light of the present Application.

- **Decision**

The Tribunal dismissed the Application.

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.

Patricia Pryce

10 August 2018

Legal Member/Chair

Date