

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

---



**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/18/0064**

**Re: Property at 60 Mugiemooss Road, Bucksburn, Aberdeen, AB21 9PF (“the  
Property”)**

**Parties:**

**LAR Housing Trust, C/O 22 Abercrombie Court, Prospect Road, Westhill,  
Aberdeenshire, AB32 6FE (“the Applicant”)**

**Mr John Crawford, 60 Mugiemooss Road, Bucksburn, Aberdeen, AB21 9PF (“the  
Respondent”)**

**Tribunal Members:**

**Neil Kinnear (Legal Member)**

**Decision**

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

**Background**

This is an application for a payment order dated 19<sup>th</sup> December 2018 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 sought payment of arrears in rental payments of £1,841.94 in relation to the Property from the Respondent, and provided with its application copies of the short assured tenancy agreement and a copy rent statement. 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 11<sup>th</sup> May 2018, and I was provided with the executions of service.

### **Case Management Discussion**

A Case Management Discussion was held on 13<sup>th</sup> June 2018 at The Credo Centre, 14-20 John Street, Aberdeen. The Applicant did not appear, but was represented by Mr Dorn, solicitor. The Respondent appeared in person.

Mr Dorn explained that the Applicant had purchased the landlord's interest in terms of the short assured tenancy in May 2016, just after the commencement of the tenancy. It was accordingly successor to the landlord noted under the tenancy agreement, Mugiemooss and Cove NHT. He provided the Tribunal with appropriate paperwork and title sheets to confirm that situation.

I was invited by Mr Dorn with reference to the application and papers to grant an order for payment in the sum of £4,911.84. He produced at the Case Management Discussion a further updated rent account statement to 13<sup>th</sup> June 2018 from the Applicant, which disclosed that rent arrears as at the date of the Case Management Discussion amounted to £4,911.84. The reason that the figure sought had changed is that since the application was lodged, the Respondent had made no further payments towards the monthly rental. Mr Dorn sought the Tribunal's consent at the Case Management Discussion to amend the figure sought in the application to the figure of £4,911.84.

The Respondent indicated that he was not in a position to contest the figure sought of £4,991.84, which he accepted was the outstanding rental due by him to the Applicant as at today's date. He indicated that he did not wish to have an opportunity to make written or oral representations in response to the proposed amendment, and did not seek to oppose the granting of an order for payment of £4,911.84.

In these circumstances, the Tribunal consented to the amendment of the sum sought without the imposition of any conditions.

### **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 against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement and the copy rent statements provided, and was satisfied that this disclosed an outstanding balance of rent arrears at the date of the Case Management Discussion in the sum sought of £4,911.84. Accordingly, the Tribunal shall make an order for payment of that sum.

### **Decision**

In these circumstances, I will make an order for payment by the Respondent to the Applicant of the sum of £4,911.84.

### **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.

N Kinnear

---

**Legal Member/Chair**

13/06/18  

---

**Date**