



**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/23/4080**

**Re: Property at Ark A The Cross, Little Causeway, Culross, Fife, KY12 8HS  
("the Property")**

**Parties:**

**The National Trust for Scotland for Places of Historic Interest or Natural  
Beauty, The National Trust for Scotland, for Places of Historic Interest or  
Natural Beauty, Hermiston Way, 5 Cutlins Way, Edinburgh, EH11 4DF ("the  
Applicant")**

**Mr Terry Webster, Ark A The Cross, Little Causeway, Culross, Fife, KY12 8HS  
("the Respondent")**

**Tribunal Members:**

**Neil Kinnear (Legal Member) and Ahsan Khan (Ordinary Member)**

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

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

**Background**

This was an application for a payment order dated 15<sup>th</sup> November 2023 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 originally sought payment of arrears in rental payments in relation to the Property from the Respondent of £10,187.87 together with interest at the rate of 5% per annum above the base rate from time to time in force of the Royal Bank of Scotland from the due date until paid, and provided with its application copies of a short assured tenancy agreement and a rent arrears 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 31<sup>st</sup> January 2024, and the Tribunal was provided with the execution of service.

On 1<sup>st</sup> March 2024 the Applicant amended by e-mail the sum sought to £12,187.87 in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, which amendment was intimated to the Respondent.

In advance of the Case Management Discussion, the Applicant provided an up-dated rent arrears statement.

### **Case Management Discussion**

A Case Management Discussion was held at 14:00 on 15<sup>th</sup> March 2024 by Tele-Conference. The Applicant did not participate and was represented by Mr Miller, solicitor. The Respondent did not participate, nor was he represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Mr Miller with reference to the application and papers to grant an order for payment of the sum of £12,187.87 together with interest at the rate of 5% per annum above the base rate from time to time in force of the Royal Bank of Scotland from the due date until paid in terms of clause 2.1(c) of the lease agreement in terms of Rule 41A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended. The monthly rental due in terms of clause 2.1(a) of the tenancy agreement is £500.00 per month.

### **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 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, the rent arrears statement, and Mr Miller’s submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicant in respect of rent arrears of £12,187.87 as sought. The monthly rental due in terms of clause 2.1(a) of the tenancy agreement is £500.00 per month.

The Applicant also sought interest on that amount at the rate of 5% per annum above the base rate from time to time in force of the Royal Bank of Scotland from the due date until paid in terms of clause 2.1(c) of the lease agreement in terms of Rule 41A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended. In terms of that rule, the Tribunal may include interest at the rate stated in the tenancy agreement.

Accordingly, the Tribunal made an order for payment of the sum sought with interest thereon.

## **Decision**

In these circumstances, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of £12,187.87 together with interest at the rate of 5% per annum above the base rate from time to time in force of the Royal Bank of Scotland from the due date until paid.

## **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**

15<sup>th</sup> March 2024

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**Legal Member/Chair**

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**Date**