



**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/19/1431

**Re: Property at 2 Sidney Street, Salcoats, North Ayrshire, KA21 5DD (“the
Property”)**

Parties:

**Mr Ralph Tennent, 37/38 Froxfield, Marlborough, Wiltshire, SN8 3LD (“the
Applicant”)**

**Mr Brian McGregor, Ms Kathryn Williams, 2 Sidney Street, Salcoats, North
Ayrshire, KA21 5DD; 2 Sidney Street, Salcoats, North Ayrshire, KA21 5DD
(“the Respondents”)**

Tribunal Members:

Neil Kinnear (Legal Member) and Colin Campbell (Ordinary Member)

Decision in absence of the Respondents

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

Background

This is an application for a payment order dated 9th May 2019 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 of £2,981.24 in relation to the Property from the Respondents, and provided with his application copies of the short assured tenancy agreement and rent arrears statement.

As the Tribunal concluded that there was a disagreement upon the facts in this application, it set a Hearing.

The Tribunal advised the Respondents at the continued Case Management Discussion that it would issue a Direction dated 19th August 2019 for them to provide by 13th September 2019 a note which should include the reason they have withheld rent and a list of each repair which they assert is required to the Property together with evidence of those; confirmation of when the need for those repairs first arose; confirmation of the date when they notified the Applicant of the need for those repairs and that they were withholding rent pending repairs being undertaken, and by what method this was done; and evidence that they had placed the withheld rent into a separate account pending resolution of this matter.

The Respondents had been validly served by sheriff officers with the notification of Hearing, application, papers and guidance notes from the Tribunal on 29th August 2019, which included a copy of both the Direction and the Case Management Discussion Note of 19th August 2019, and the Tribunal was provided with the executions of service.

Hearing

A Hearing was held on 3rd October 2019 at Ardeer Neighbourhood Centre, Shore Road, Stevenston. The Applicant did not appear, but was represented by Mr Nixon, property agent. The Respondents did not appear, nor were they represented. The Respondents have not responded to the Tribunal either in writing or by any other form of communication since the continued Case Management Discussion of 19th August 2019, and have failed to respond to the Direction of that date.

The Tribunal was invited by Mr Nixon with reference to the application and papers to grant an order for payment of £3,710.24. Mr Nixon provided an updated rent arrears statement as at today's date, which disclosed that arrears now total £3,710.24.

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 Respondents) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the copy rent arrears statement, and Mr Nixon’s submissions, and was satisfied that this disclosed an outstanding balance due by the Respondents to the Applicant of £3,710.24.

The Respondents have not attended the Hearing, and have produced no evidence whatsoever in support of the position they advanced at the continued Case Management Discussion. They have failed to respond to the Tribunal’s direction in that regard.

Accordingly, the Tribunal was not satisfied in relation to their defence to this application of which there was no evidence, and shall make an order for payment of the sum now sought.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £3,710.24.

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.

Neil Kinnear

Legal Member/Chair

03/10/19

Date