



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 6 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/19/2479

Re: Property at Newlands, Tulloch Road, Perth, PH1 2RW (“the Property”)

Parties:

**Perthshire Glazing Company, Rosemary House, Inveralmond Industrial Estate,
Perth, PH1 3TW (“the Applicant”)**

**Miss Lesley Ogilvie, Mr Wayne Robertson, Newlands, Tulloch Road, Perth, PH1
2RW (“the Respondent”)**

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the order for payment is granted to the amount of
£5550.**

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £5550 in terms of s16 of the Housing (Scotland) Act 2014.
2. The Tribunal had before it the following documents:
 - a. Application dated 7th August 2019 and received by the Tribunal on 8th August 2019.
 - b. Short Assured Tenancy agreement between the parties signed 22nd May 2017 with the commencement of the tenancy on 22nd May 2017

for a 12 months period until 23rd May 2018 and on a bi monthly basis thereafter.

3. The Tribunal also had before it a copy of the title deeds numbered PTH50592.
4. A Notice of Acceptance of Application was signed on 25th September 2019.
5. A Case Management Discussion ("CMD") was held on 28th October 2019. The CMD was continued to allow the Respondents to make payment of £150 per fortnight to the arrears. It also was continued to allow the Respondents to seek money advice and legal advice.
6. The Applicant had originally sought £3250. However, during the process the arrears increased and the Applicant's representative amended the amount sought to £5550.

Case Management Discussion

7. A CMD was held on 17th December 2019 at 11.30am at Inveralmond Business Centre, Auld Bond Road, Perth. The Applicant was represented by Ms Nicola Caldwell. Mr Wayne Robertson attended on behalf of both Respondents. The previous CMD was continued to allow for the Respondents to get money advice, obtain legal advice and to start payments of £150 per fortnight from 14th November 2019. Mr Robertson informed the Tribunal that he had been unable to set up a payment on a fortnightly cycle so had done so on a weekly cycle. Ms Caldwell had noted that the payment agreement had not been adhered to. A payment had been missed on 5th December 2019. Mr Robertson checked his bank account and confirmed that it had not been paid. He noted that he had insufficient funds that day to pay it. He has not paid his on going rent charge as he cannot afford it with the arrears payments. This has meant that he has not reduced the arrears. He has struggled financially. He has not been to get money advice or legal advice. He has been focusing on organising his move to a new property. He is anticipating moving into the new property by the end of December 2019 but needs to buy new carpets. He has not given notice on this property. He confirmed that both he and his wife have returned to work full time. He was not able to offer any information to mitigate his position with regard to increased amount of the arrears. Ms

Caldwell motioned for the amount sought to be amended to the increased amount of £5550. Ms Caldwell noted that she would be able to liaise with Mr Robertson on her client's behalf to discuss a further possible repayment agreement should the Order be granted. Ms Caldwell maintained her position that she sought for the Order to be granted as amended as the Respondents had been in arrears since 1st April 2019.

Findings in Fact

8. The parties entered into a Short Assured Tenancy on 22nd May 2017 with the commencement of the tenancy on 22nd May 2017. The rent payments of £650 are due by the 1st day of each month.
9. The Housing and Property Chamber received an Application on 7th August 2019.
10. The Respondents have persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £5550, beyond that which was sought in the application.
11. The Respondents have not reduced the arrears with the payment agreement as they have not maintained rent payments in addition to the arrears payment. This has caused the arrears to increase.
12. The Respondents missed a payment to the arrears on 5th December 2019 of £75.
13. The Respondents have elected not to seek money advice or legal advice.
14. There are no outstanding Housing Benefit issues.
15. The arrears due to the Applicant amounts to £5550.

Reasons for Decision

16. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a up to date rent statement, at the Tribunal, for the period 1st April 2019 to 12th December 2019 in which payments have been missed to amount to £5550 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before it. The Tribunal decided that the Respondent had persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £5550 against the Respondent.

Decision

17. The Applicant is entitled to for an order of payment of the amended amount of £5550 by the Respondent. The Order was granted against the Respondent.

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.

Gabrielle Miller
Legal Member/Chair

17 Dec 19
Date