



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 70(1) of the Private Housing
Tenancies (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/19/2651

Parties:

**BRL 1995 Discretionary Trust, c/o Lickley Proctor Lettings, 58 Bell Street,
Dundee, DD1 1HF (“the Applicant”)**

**Bruce Short Solicitors, 3 Rattray Street, Dundee, DD1 1NA (“the Applicant’s
Agent”)**

**Mr Ian Thomas Brown, residing at 3/2 (also known as 3/R), 73 Church Street,
Dundee, DD3 7HP (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to make an order for payment against the Respondent in
the sum of Three thousand eight hundred and fifty two pounds together with
interest at the rate of eight per cent per annum above the Bank of England
base rate to run from the date of the order until payment.**

Background

- 1 By application dated 20th August 2019 the Applicant sought an order for payment of rent arrears against the Respondent. The following documents were submitted in support of the application:-
 - (i) Copy Tenancy Agreement between the parties dated 26th and 29th August 2011 together with Form AT5;
 - (ii) Copy Notice to Quit dated 13th May 2019;



- (iii) Copy Notice under section 33(1)(d) of the 1988 Act dated 13th May 2019;
 - (iv) Letter from Lickley Proctor Lettings to the Respondent dated 13th May 2019;
 - (v) Sheriff Officers Certificate of Service dated 16th May 2019 in relation to Notice to Quit and Notice under section 33(1)(d); and
 - (vi) Rent Statement.
- 2 By Notice of Acceptance of Application dated 17th September 2019 the Legal Member with delegated powers of the Chamber President intimated that there were no grounds to reject the application. A Case Management Discussion was therefore assigned for 28th October 2019.
- 3 The application paperwork together with notification of the Case Management Discussion was served on the Respondents by Sheriff Officers on 24th September 2019.

The Case Management Discussion

- 4 The Case Management Discussion took place on 28th October 2019. The Applicant was represented by Elizabeth Hodgson from Bruce Short Solicitors. She produced an up to date rent statement confirming that arrears had increased to the sum of £3852 and the Applicant sought an order for payment in that sum together with interest at a rate deemed appropriate by the Tribunal.

Findings in Fact and Law

- 5 The parties entered into a Tenancy Agreement dated 26th and 29th August 2011;
- 6 In terms of Clause 5 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £385 per calendar month.
- 7 As at the date of the Case Management Discussion rent arrears in the sum of £3852 are outstanding.
- 8 The Respondent is liable to make payment of the outstanding arrears of rent in terms of his contractual obligation under the said Tenancy Agreement between the parties.



Reasons for Decision

- 9 The Tribunal was satisfied that it was able to make a decision at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties. The Tribunal noted that the Respondent had received service of the application paperwork by Sheriff Officers. The Tribunal was therefore satisfied that he had been given the opportunity to participate in the proceedings and it could therefore proceed to determine the application at the Case Management Discussion in his absence.
- 10 The Tribunal accepted based on its findings in fact that the Respondent was contractually obliged to make payment of rent to the Applicant in the sum of £385 per month and that arrears of rent had accrued as a result of the Respondent's failure to make payment. Accordingly the Applicant was entitled to an order for payment of the sum due. The Tribunal was further satisfied that the terms of the application enabled it to make an order for the arrears outstanding as at the date of the Case Management Discussion, the Respondent having been given fair notice that the Applicant would be seeking the updated sum.
- 11 The Tribunal therefore made an order for payment in the sum of £3852. The Tribunal was also content to award interest at the rate of eight per centum per annum above the Bank of England base rate to run from the date of the order until payment.

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.


Legal Member/Chair

28/10/19
Date