



**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/19/2190**

**Re: Property at No 2 Peebles Cottage, Arbroath, DD11 3RW (“the Property”)**

**Parties:**

**Rosalind Margaret Erskine Fletcher, The Cottage, Firhills, Colliston, By  
Arbroath, DD11 4QZ (“the Applicant”)**

**Dalhousie Estates Office, Estate Office, Brechin, DD9 6SG (“the Applicant’s  
Agent”)**

**Mr William Ellis, 1 Oldhall, Raemoir, Banchory, AB21 5JR (“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 Four thousand six hundred and ninety six pounds and fifty three  
pence (£4696.53) together with interest at the rate of eight per cent per annum  
from the date the order was made until payment.**

**Background**

- 1 By application dated 10 July 2019 the Applicant sought an order for payment against the Respondent in respect of unpaid rent and Council Tax. In support of the application the Applicant provided the following documentation:-
  - (i) Tenancy Agreement between the parties dated 30<sup>th</sup> November 2017;
  - (ii) Rent Statement showing arrears of £3500 as at 1<sup>st</sup> December 2018;

- (iii) Notice of Council Tax from Angus Council dated 3 April 2019 in respect of arrears of Council Tax for the period 1 April 2018 to 13 January 2019; and
  - (iv) Copy Letter to Respondent requesting payment of the outstanding balance.
- 2 By Notice of Acceptance of Application dated 28<sup>th</sup> August 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 12<sup>th</sup> September 2019.
  - 3 The application paperwork together with notification of the Case Management Discussion was served on the Respondents by Sheriff Officers on 29th August 2019.

#### **The Case Management Discussion**

- 4 The Case Management Discussion took place at Credo Centre on 17th October 2019. Mr Lee Corr appeared from Thorntons Solicitors on behalf of the Applicant. The Respondent was not in attendance. The Tribunal was however satisfied that the Respondent had received proper notification of the Case Management Discussion and therefore determined to continue in his absence.
- 5 Mr Corr explained that the Applicant sought arrears of rent in the sum of £3500 and also payment in respect of Council Tax arrears that the Respondent was liable for in terms of the lease. In response to questions from the Tribunal Mr Corr confirmed that the order was sought in the name of the owner, Mrs Rosalind Fletcher. The Tribunal therefore agreed to amend the application to reflect this. The Tribunal also queried the sum sought in terms of the Council Tax arrears. It was noted that the statement produced was for the period up until 13 January 2019 however the Applicant's Agent had previously advised the Tribunal that the tenancy had terminated on 31<sup>st</sup> December 2018. The Tribunal advised Mr Corr that it had calculated that a sum of £56.56 based on a daily rate over that period should be deducted from the sum due as a result. Mr Corr agreed to accept that deduction, having advised the Tribunal that he did wish the opportunity to make his own separate calculation.

#### **Findings in Fact and Law**

- 6 The parties entered into a Tenancy Agreement dated 30<sup>th</sup> November 2017 in respect of the Property.
- 7 In terms of Clause 3 of the Tenancy Agreement the Respondent undertook to pay rent of £500 per month.

- 8 In terms of Clause 15 of the Tenancy Agreement the Respondent undertook to pay the Council Tax levied by the local authority.
- 9 The tenancy between the parties terminated on 31<sup>st</sup> December 2018.
- 10 As at the date of termination arrears of rent in the sum of £3500 were outstanding.
- 11 As at the date of termination arrears of Council Tax in the sum of £1196.53 were outstanding.
- 12 The Respondent is liable to pay the sum of £4696.53 in accordance with the terms of the Tenancy Agreement between the parties.
- 13 Despite repeated requests the Respondent has refused or delayed in making payment.

#### **Reasons for Decision**

- 14 The Tribunal was satisfied that it was able to continue with the Case Management Discussion in the absence of the Respondent. He had received service of the application by Sheriff Officers. The Tribunal therefore considered it could reasonably assume that he was aware of the Case Management Discussion and had been given the opportunity to attend or make written representations in response to the application.
- 15 The Tribunal was further satisfied that it was able to make a determination of the application at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties.
- 16 Based on the verbal and written representations from the Applicant's Agent, the Tribunal accepted that the Respondent was due to make payment of rent in the sum of £500 per month in terms of the Tenancy Agreement entered into between the parties. He had failed to do so. He had not put forward any evidence to counter the Applicant's position in this regard. The Tribunal found the Applicant's evidence to be credible as put forward by her agent and therefore accepted her position.
- 17 The Tribunal further accepted that the Respondent had failed to make payment of Council Tax and that the Applicant had been liable to make payment as the owner and landlord of the property as a result. The Tribunal therefore concluded that the Respondent was liable to pay to the Applicant the sum equivalent to the outstanding balance of Council Tax as at the termination date of the tenancy which the Tribunal calculated to be £1196.53.

18 The Tribunal therefore determined to make an order for payment against the Respondent in the sum of £4696.53, being arrears of rent and ~~Council Tax~~ due by the Respondent under the terms of the tenancy agreement between the parties.

**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.

Ruth O'Hare  
Legal member/Chair

17/10/19  
Date