

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017**

**Chamber Ref: FTS/HPC/CV/18/0485**

**Re: Property at Station Cottage, Ellon, AB41 8JQ (“the Property”)**

**Parties:**

**Mr Charles Buchan, Auchmacoy Estate Office, Ellon (“the Applicant”)**

**Mr Neal Dempster, Station Cottage, Ellon, AB41 8JQ (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondent make payment to the applicant the sum of FIVE THOUSAND FIVE HUNDRED POUNDS (£5500.00)**

**Background**

1. By application dated 22.02.2018 the applicant applied to the Tribunal for an order for payment of the sum of £5845.29 in respect of arrears of rent in terms of the tenancy agreement between the parties.
2. On 27<sup>th</sup> March 2018 a legal member of the Tribunal with delegated powers referred the application to a Tribunal and a Case Management Discussion was fixed to take place at Victoria Hall, Ellon on 5<sup>th</sup> June 2018.
3. The applicants representatives Raeburn, Christie, Clark and Wallace, 12-16 Albyn Place, Aberdeen made written representations to the Tribunal and their Mr Stuart Smith attended at the Case Management Discussion.

**Case Management Discussion**

4. The case management discussion took place on the 5<sup>th</sup> of June 2018 there was no attendance by the respondent. The applicants representative Mr Smith referred the tribunal to the applicants written representations and in particular the Auchmacoy Estate Customer Ledger Cards dated 15.02.18 and 28.05.18. According to Mr Smith the current arrears amounted to £7999.52.
5. In response to a question from the tribunal Mr Smith accepted that the application stated that the monthly rent was £650 and not £681.39 as shown on the ledger cards. Mr Smith accepted that any award made by the tribunal should be restricted to £650 per month.
6. In response to a further question from the tribunal Mr Smith accepted that as the respondent had vacated the property prior to intimation of the up to date rent arrears being sent to the respondent he would have no knowledge of any amended sum being sought. In the circumstances Mr Smith was prepared to accept that any sum awarded be restricted to an amount equivalent to the arrears as at the date of the application and at a monthly rent of £650 being a total of £5500.

### **Findings in Fact**

7. The parties entered into a short assured tenancy agreement which ran from 1<sup>st</sup> November 2016 until 1<sup>st</sup> May 2017 and continued monthly thereafter until terminated.
8. Between 1<sup>st</sup> April 2017 and 1<sup>st</sup> February 2018 the respondent was due to pay rent to the applicant in the sum of £7150. The respondent paid £1650 leaving rent arrears due of £5500.
9. The respondent has vacated the property leaving the said sum unpaid. The applicant is therefor entitled to an order for payment.

### **Reasons for Decision**

10. There was no appearance by the respondent to oppose the application.
11. Despite the customer ledger card showing a greater sum being due by the respondent to the applicant it was not clear how those sums had been calculated as the rent was stated to be £650 per month and the tribunal therefor has restricted the amount awarded accordingly having been satisfied that the respondent was in substantial arrears of rent.

### **Decision**

12. The First Tier Tribunal for Scotland (Housing and Property Chamber) determined that the respondent make payment to the applicant the sum of FIVE THOUSAND FIVE HUNDRED POUNDS (£5500).

**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.**

G Harding

Legal Member/Chair



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Date

5/6/18