



**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/18/1554

Re: Property at 2H Allanfauld Road, Cumbernauld, G67 1EY (“the Property”)

Parties:

Mr Nicolas Flynn, 18/2 Park Circus, Glasgow, G3 6BE (“the Applicant”)

Mr Stefan Whitehurst, 2H Allanfauld Road, Cumbernauld, G67 1EY (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application for a payment order dated May 2018 (received by the Tribunal on 22nd June 2018) 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 sought in his application payment of arrears in rental payments of £1,650.00 in relation to the Property from the Respondent, and provided with his application copies of the short assured tenancy agreement, tenancy amendment letter, authority from landlord for representative to act on his behalf, form AT5, Notice to Quit, Section 33 notice, Section 11 notice, relevant executions of service, and copy rent arrears statement.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 24th July 2018, and I was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 21st August 2018 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was represented by Ms Lindsay Findlay, property consultant. The Respondent did not appear, nor was he represented.

I was invited by Ms Findlay with reference to the application and papers to grant an order for payment in the sum of £1,650.00, which represented three months' rental arrears accrued to the date of this application.

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 Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement and the copy rent arrears statement provided, and was satisfied that this disclosed an outstanding balance of rent arrears as at the date of the Application in the sum sought of £1,650.00. Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, I will make an order for payment by the Respondent to the Applicant of the sum of £1,650.00.

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

21/08/18

Date