



**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/18/2694**

**Re: Property at 11 Marquis Court, The Stables, Feus Road, Perth, PH1 2TW  
("the Property")**

**Parties:**

**Ms Karen Young, 1 Dulnain Street, Nairn, IV12 5ST ("the Applicant")**

**Mr Ross Nelson, 11 Marquis Court, The Stables, Feus Road, Perth, PH1 2TW  
("the Respondent")**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that the Applicant is entitled to the amount of £1450**

**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 £1450 in terms of s16 of the Housing (Scotland) Act 2014.
2. The parties entered into a Short Assured Tenancy between 1<sup>st</sup> July 2015 and 31<sup>st</sup> December 2015 which was continued on a month to month basis thereafter. The rent payments of £500 per month were due on or before the 1st day of each month in advance.
3. The Tribunal had before it the following documents:
  - a) Application dated 19<sup>th</sup> September 2018 received by the Housing and Property Chamber on 8<sup>th</sup> October 2018.

- b) Short Assured Tenancy Agreement signed 20<sup>th</sup> June 2015.
- c) Form AT5 signed by the parties on 20<sup>th</sup> June 2015.
- d) Notice to Quit dated 26<sup>th</sup> April 2018 dated by Sheriff Officers 26<sup>th</sup> April 2018.
- e) Section 33 Notice dated 26<sup>th</sup> April 2018 requiring vacant possession as at 30<sup>th</sup> June 2018.
- f) Title deeds with reference PTH5016
- g) Sheriff Officers execution of service for the Notice to Quit and Section 33 Notice dated 30<sup>th</sup> April 2018.
- h) Section 11 Notice noting date of raising proceedings 19<sup>th</sup> September 2018.
- i) Sheriff Officer certificate of citation for documents pertaining to CMD on 9<sup>th</sup> January 2019 at including date and time of the CMD. The certificate is dated 11<sup>th</sup> December 2018 and issued by letterbox delivery. The Sheriff Officer being satisfied that the Respondent resided at the Property.

#### Case Management Discussion

4. The Tribunal held a Case Management Discussion ("CMD") on 9<sup>th</sup> January 2019 at Inveralmond Business Centre, Perth. The Applicant was not present but was represented by Ms Bernie O'Connor from Simple Approach Letting Agency. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Respondent was written to on 7<sup>th</sup> December 2018 asking for any representations to be sent to the Housing and Property Chamber no later than 31<sup>st</sup> December 2018. No representations were submitted. The documents submitted to the Housing and Property Chamber were copies which were unsigned. The agents for the Applicant brought originals which were signed copies and gave the Chair copies. These were inspected by the Chair and confirmed to be satisfactory. Ms O'Connor informed the Tribunal that the arrears had increased to £3000. She also informed the Tribunal the Respondent was in work and that there were no outstanding Housing Benefit issues. Ms O'Connor gave an up to date rent statement to 1<sup>st</sup> January 2019. It was noted that the rent increased to £525 per month from 1<sup>st</sup> March 2018. The last payment received was on 29<sup>th</sup> October 2018 for £800. This was not to adhere to a payment plan but a figure decided upon by the Respondent without consultation. Ms O'Connor had last heard from Respondent at the weekend prior to the hearing when she had asked if he was still in the Property to which he replied with a 'thumbs up emoji' which she had taken to confirm his presence in the Property.

#### Findings in Fact

5. The parties entered into a Short Assured Tenancy on 1<sup>st</sup> July 2015 with the commencement of the tenancy on 1<sup>st</sup> July 2015 for a 6 months period until 31<sup>st</sup> December 2015 and on a month to month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £500 are due by the 1st day of each month.
6. The Housing and Property Chamber received an Application on 15<sup>th</sup> August 2018.
7. Rent payments have been persistently missed.

#### Reasons for Decision and Decision

8. 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 rent statement for the period 1<sup>st</sup> June 2016 to 24<sup>th</sup> September 2018 in which payments have been missed to amount to £1450 in rent arrears. The Applicant lodged an updated statement to the Tribunal to 1<sup>st</sup> January 2019, which showed that the amount had increased to £3000. However, this higher amount had not be intimated upon the Respondent so could not be considered to be amended on the day of the hearing. The Tribunal could not increase the amount sought, as this had not been notified upon the Respondents. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent had persistently not paid the rent and he was in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £1450.

#### **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

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**Legal Member/Chair**

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**Date**