



**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/20/1391**

**Re: Property at 8 Arbaille, Leven, Fife, KY8 5AS (“the Property”)**

**Parties:**

**Mr Allan Ballantyne, c/o Premier Rentals Fife Ltd, 189 Commercial Street, Kirkcaldy, KY1 2NS (“the Applicant”)**

**Miss Rhona Hunter, 8 Arbaille, Leven, Fife, KY8 5AS (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £2,799.94. The Applicant’s request for interest on the principal sum was refused.**

**Background**

By application, received by the Tribunal on 22 June 2020, the Applicant sought an Order for Payment in respect of arrears of rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £1,104.94. The Applicant also sought interest on that sum from the date of the Tribunal’s decision. The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties commencing on 13 March 2015 at a rent of £435 per month, and a Rent Statement showing arrears as 1 March 2020 of £1,104.94.

On 3 August 2020, the Tribunal advised the Parties of the date and time for a Case Management Discussion and the Respondent was invited to make written representations by 17 August 2020. The Respondent did not make any written representations to the Tribunal.

On 13 August 2020, the Applicant sought leave to amend the application to increase the amount sought to £2,779.94 and provided an updated rent statement showing arrears of that amount as at 10 August 2020. The request to amend was intimated to the Respondent.

### **Case Management Discussion**

A Case Management Discussion was held by way of a telephone conference call on the afternoon of 24 August 2020. The Applicant was represented by Kirstie Donnelly of Bannatyne Kirkwood France & Co, solicitors, Glasgow. The Respondent participated in the Case Management Discussion. The Respondent accepted that the increased sum sought was due. She explained that there had been an issue regarding her housing benefit. She hoped to be able to make a substantial payment in the near future but had no substantive proposal to make. The Applicant's representative advised the Tribunal that her instructions were to request the Order for Payment without a Hearing. The Tribunal Member told the Respondent that he had no option but to make the Order, but that, should a benefits payment be made and passed on to the Applicant, the Respondent should let the Tribunal know immediately.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a decision. The Tribunal was satisfied that it had before it all the information it required to enable it to decide the application without a Hearing.

The Tribunal was content to allow the amendment, as proper intimation had been made and the Respondent did not challenge the amended sum. The Tribunal was satisfied that the amended sum had become lawfully due by the Respondent to the Applicant and that an Order for Payment should be made.

The Tribunal refused the Applicant's request for interest on the principal sum. The Short Assured Tenancy Agreement between the Parties did not make provision for interest on unpaid rent, although it did state that the Respondent would be liable to pay a handling charge of £25 on each and every sum which was overdue. The Applicant had not hitherto imposed such a charge on the Respondent in respect of the arrears of rent and the Tribunal saw no justification for awarding interest on the principal sum.

### **Decision**

The Tribunal determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £2,799.94.

### **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**

G Clark

**Legal Member/Chair**

**24 August 2020**

**Date**