

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/19/0448

Re: Property at B/2, 24 Kensington Gate, Glasgow, G12 9LQ (“the Property”)

Parties:

**Mr John Perdikou t/a Perdico Homes, 11 Athole Gardens, Glasgow, G12 9AZ
 (“the Applicant”)**

**Mr Craig Murphy, B/2, 24 Kensington Gate, Glasgow, G12 9LQ (“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 7th February 2019 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 £4,900.00 in relation to the Property from the Respondent as at the date of the application. The Applicant provided with his application copies of the short assured tenancy agreement, rent arrears statement and various correspondence.

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 21th March 2019, and I was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 11th April 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant appeared and was not represented. The Respondent did not appear, nor was he represented.

The Respondent had responded to the Tribunal by telephone call and subsequent e-mail dated 4th April 2019, in which he indicated that he intended to attend today's Case Management Discussion. He indicated that he had financial difficulties and hoped to reach an agreement with the Applicant to pay him what is owed.

The Applicant had received a copy of this e-mail, and confirmed that he had not heard from the Respondent with any proposals or offers, and accordingly he invited the Tribunal with reference to the application and papers to grant an order for payment of the sum sought in the application of £4,900.00, which is the sum that the rent arrears statement indicated was outstanding as at 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 in the sum sought of £4,900.00.

Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicants of the sum of £4,900.00.

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.


Legal Member/Chair

11/04/19

Date