



**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/19/1028**

**Re: Property at 1L Willowbank, Burnside, Aberfeldy, PH15 2AU (“the  
Property”)**

**Parties:**

**Mr Paul Letley, 3 Windmill Road, St Andrews, KY16 9JJ (“the Applicant”)**

**Miss Harriet Pitcaithly-Halsey, Mr Jorge Santos, 37 Moness Crescent,  
Aberfeldy, PH15 2DN (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the application should be granted without a hearing  
and made an Order for Payment by the Respondent to the Applicant of the  
sum of £3,450.**

**Background**

By application, received by the Tribunal on 1 April 2019, 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 £2,050.

The application was accompanied by copies of a Short Assured Tenancy Agreement between commencing on 1 May 2012 at a monthly rent of £340, a Form AT5 Notice dated 26 April 2012, an Arrears Summary as at 28 March 2019, a Notice to Quit dated 8 January 2019 and a Section 33 Notice which was undated, but which, along with the Notice to Quit, had been served by sheriff officer on 10 January 2019. The Respondent, Mr Santos, was one of two named tenants in the Short Assured Tenancy Agreement and the Applicant also provided the Tribunal with a copy of a Minute of Agreement dated 5 and 15 July 2018, to add as a second tenant the Respondent Ms Pitcaithly-Halsey.

On 16 May 2019, The Tribunal advised the Parties of the date, time and place for a Case Management Discussion and the Respondent was invited to make written representations by 5 June 2019. The Respondent made no written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held on 20 June 2019, but was continued, as the title to the Property stood in the joint names of the Applicant and his wife, Mrs June Letley and there was no evidence before the Tribunal that Mrs Letley had confirmed to having no objection to the proceedings running in the sole name of the Applicant or alternatively that she wished to be a party to the proceedings. The Minute of Agreement between the Parties also made no reference to Mrs Letley, who, it appeared, would have been a joint landlord. The Tribunal, therefore, required the Applicant to provide confirmation that she was in agreement with the Applicant granting the Minute of Agreement. The Tribunal also noted that the tenancy agreement and the Minute of Agreement both referred to the rent being £340 per month, but the Arrears Summary produced by the Applicant's representatives showed the rent due as being £350 per month.

By e-mail dated 25 June 2019, the Applicant's representatives asked the Tribunal to increase the amount sought to reflect the fact that no rent had been paid by the Respondent since the date of the application and that, by the date of the continued Case Management Discussion, the arrears would have increased to £3,450.

Prior to the continued Case Management Discussion, the Applicant's representatives provided the Tribunal with a copy of their letter of 29 June 2018 to the Respondent, Mr Santos, advising him that the rent was being increased to £350 with effect from 15 July 2019, a copy letter from the Applicant's wife, confirming that in terms of a Minute of Agreement in 2013, the whole beneficial interest in the Property passed to the Applicant and that she had no interest in the Property so had no difficulty regarding the Minute of Agreement which added the Respondent Miss Pitcaithly-Haley as a tenant, and an updated Arrears Schedule as at 15 June 2019.

The continued Case Management Discussion was held at Inveralmond Business Centre, Perth on the afternoon of 29 July 2019. The Applicant was represented by Miss Sheila Horne of CKD Galbraith. The Respondent was not present or represented.

The Applicant's representative asked the Tribunal to grant the Order without a hearing. She advised the Tribunal that, in her last discussion with the Respondent, Miss Pitcaithly-Halsey had told her that she would contact her again when the Respondent had vacated the Property and was in a position to return the keys. She had not called Miss Horne since then, and was, therefore, of the view that the Respondent remained liable to pay rent.

### **Reasons for Decision**

By Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, 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 and that it would determine the application without a hearing.

The Tribunal accepted the request to amend the sum sought to £3,450, on the basis that the Respondent had not advised the Applicant's representatives that the Property had been vacated and had not returned the keys.

The Tribunal was satisfied with the information provided by the Applicant following the Case Management Discussion on 20 June 2019 and that the passing rent was now £350 per month. Accordingly, the Tribunal was satisfied that the amount sought in the application was lawfully due by the Respondent to the Applicant and that the application should be granted and an Order for Payment made.

### **Decision**

The Tribunal determined that the application should be granted without a hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £3,450.

### **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.**

George Clark

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**Legal Member/Chair**

29 July 2019  
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**Date**