

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 2016**

Chamber Ref: FTS/HPC/CV/18/2329

Re: Property at 46 Fort Street, Ayr, KA7 1DE (“the Property”)

Parties:

Mrs Sally Ward, Allestree, Southwood Road, Troon, KA10 7EL (“the Applicant”)

Mr Douglas Swan, 46 Fort Street, Ayr, KA7 1DE (“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 decided without a hearing, that the application should be granted and that the Respondent should be ordered to pay to the Applicant the sum of £4,451.61.

Background

By application, received by the Tribunal on 31 August 2018, the Applicant sought an Order for Payment in respect of rent that was lawfully due from the Respondent, but which had not been paid. The application was accompanied by a rent statement showing arrears of £5,000 and the Applicant sought an Order for Payment of this sum, together with any further arrears that accrued between the date of the application and the date of the Tribunal’s decision.

On 17 September 2018, a legal member of the Tribunal with delegated powers of the Chamber President determined that the application should be referred to a tribunal and the Parties were advised by letter dated 15 October 2018 of the date, time and place of a Case Management Discussion. The Respondent was invited to make written representations by 29 October 2018.

The Respondent made no written representations to the Tribunal.

The Case Management Discussion

A Case Management Discussion was held at Russell House, King Street, Ayr on the morning of 31 October 2018. The Applicant was represented by her solicitor, Colin Duck of The McKinstry Company, Queen's Court House, 39 Sandgate Court, Ayr. The Respondent was not present or represented at the Case Management Discussion.

The Applicant's representative told the Tribunal that the tenancy to which the arrears related had been rescinded by the Applicant with effect from 28 August 2018, so the Order he was seeking was for payment of rent that had become lawfully due down to that date, but remained unpaid. The rent statement submitted with the application indicated that rent had not been paid for November 2017, but this rent had in fact been paid, so the amount sought was £4,451.61, from 1 December 2017 to 28 August 2018. The Applicant's representative told the Tribunal that no rental payments had been made since the date of the application.

Reasons for Decision

Rule 17 (4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the First-tier 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 that it required to make a decision and that it would make its decision without a hearing.

The Tribunal determined that the sum requested by the Applicant was lawfully due by the Respondent, who had not made any representations to the contrary and had not been present or represented at the Case Management Discussion. Accordingly, the Tribunal decided to grant the application and to make an Order for Payment in the sum of £4,451.61.

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

Legal Member/Chair

31 October 2018

Date