



**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/19/1413**

**Re: Flat 2/2, 76 Silvergrove Street, Glasgow G40 1DR (“the Property”)**

**Parties:**

**Mr Adam Nutt, 107 Ayr Road, Prestwick KA9 1TN (“the Applicant”)**

**Mr Kevin Greer, address unknown, formerly residing at Flat 2/2, 76 Silvergrove Street, Glasgow G40 1DR (“the Respondent”)**

**Tribunal Member:**

**David Bartos (legal member)**

**DECISION**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent shall pay to the Applicant the sum of FIVE THOUSAND THREE HUNDRED AND TWENTY POUNDS (£ 5320.00) STERLING together with interest thereon at the rate of three per cent (3%) per year from 12 July 2019 until payment.

**Background**

1. In August 2016 the parties entered into a tenancy of the Property with the Applicant as landlord and the Respondent as tenant. The Applicant seeks an order for payment of rent by the Respondent.
2. On 12 July 2019 the Tribunal had a case management discussion (“CMD”) attended by the Applicant. There was no appearance by or on behalf of the Respondent. The Tribunal noted that Notice of the CMD at to-day's date had

been given to the Respondent in a letter from the Tribunal dated 6 June 2019 which had been served on him by sheriff officer on 7 June 2019. No further contact with the Tribunal had been made by the Respondent. The Tribunal proceeded with the CMD. It took the view that in all the circumstances it was not unfair to the Respondent to proceed with the CMD and that it would be unfair to the Applicant for there to be further delay.

3. The Respondent had not made any written representations to the Tribunal opposing the application or taking issue with the documents lodged by the Applicant.

#### **4. *Facts Not in Dispute Between the Parties***

(a) On 1 August 2016 the Applicant entered into a written short assured tenancy of the Property to the Respondent ("the Lease"). The Lease was for 6 months commencing on 1 August 2016 and thereafter on a month to month basis.

(b) The Lease provided for the payment by the Respondent to the Applicant of rent of £ 525 per month payable in advance on the first day of each month. The Lease continued in force until 30 June 2019.

(c) The Respondent has paid none or only part of the full rent due in February 2017, July 2017 to December 2017, February and March 2018, July to September 2018 and from December 2018 to May 2019.

(d) The total amount of rent due and unpaid up to 7 May 2019 is £ 5,320 as per the Applicant's statement of rent due and arrears dated 7 May 2019.

(e) On 9 May 2019 the Applicant had applied to the Tribunal for an order for payment. The sum of £ 5,320 remains due and unpaid.

#### ***Oral Evidence and Submissions***

5. At the CMD the Applicant confirmed that the Lease was as lodged by him and that no further payments had been made following the statement of rent due and arrears. He noted that another instalment of rent had become due on 1 June 2019 but preferred to have the application decided at the CMD rather than to seek amendment of the application to include that additional amount.
6. He submitted that no defence had been stated and that the Tribunal should grant either order sought without continuation to a hearing.
7. He explained that he had served a notice to quit on the Respondent requiring him to leave the Property as at 30 June 2019. He himself had arranged to meet the Respondent at the Property on that date but the Respondent had not appeared, leaving the keys for the Applicant to collect. The Respondent had

ceased to reside at the Property on that date but his current whereabouts were unknown. He thought that the Respondent may have sought emergency accommodation through Shelter.

8. The Tribunal raised with the Applicant the question of the interest sought in the application. The Tribunal suggested and the Applicant had no objection to interest being awarded at 3 per cent per annum on the outstanding rent from the date of the Tribunal's Order.

### ***Reasons***

9. The Tribunal considered the application, the oral submission and evidence of the Applicant and the documentary evidence submitted by him. It found that it was able to make sufficient findings in fact and that to do so was not contrary to the interests of the parties. It was therefore able to decide the case at the CMD without a hearing. It could see no benefit to be gained from a further hearing which would cause delay.
10. The Tribunal was satisfied that the Applicant had given his evidence credibly and was reliable. No doubt was cast on that or the documentary evidence. On that basis the Tribunal made the findings in fact set out above.
11. The Tribunal accepted that there had been a breach by the Respondent of his duty to pay the rent under the Lease and that the amount sought remained unpaid. In the circumstances the Tribunal awarded the Applicant the sum of rent sought by him.
12. With regard to interest the Tribunal took the view, exercising its discretion, that having regard to the general level of interest rates and viewing the matter in the round interest at the level of 3 per cent per annum on the amount of rent outstanding was appropriate. The Tribunal can only award interest from the date of its decision.

### ***Outcome***

13. The First-tier Tribunal for Scotland (Housing and Property Chamber) orders the Respondent to pay to the Applicant the sum of Five Thousand Three Hundred and Twenty Pounds (£ 5320.00) Sterling together with interest thereon at the rate of three per centum (3%) per annum from 12 July 2019 until payment.

### ***Right of Appeal***

14. In terms of section 46 of the Tribunals (Scotland) Act 2014 a party aggrieved by the decision of the Tribunal may seek to 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.

**NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.**

D.Bartos

**Legal Member**

**12 July 2019**

**Date**