



**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/21/1482

**Re: Property at 46 Castleton Crescent, Grangemouth, FK3 0BG (“the
Property”)**

Parties:

**Mr Thomas Scott Howie, 5 Waddell Street, Carronshore, Falkirk, FK2 8HF (“the
Applicant”)**

**Miss Chloe Shearer, Mr Richey Roy, 46 Castleton Crescent, Grangemouth, FK3
0BG (“the Respondents”)**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

This was an application for a payment order submitted on 16th September 2021 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 payment of arrears in rental payments in relation to the Property from the Respondents of £5,760.00, and provided with his application copies of a short assured tenancy agreement and a rent arrears statement.

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 Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 19th October 2021, and the Tribunal was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 23rd November 2021 by Tele-Conference. The Applicant participated, and was not represented. The Respondents did not participate, nor were they represented. The Respondents have not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by the Applicant with reference to the application and papers to grant an order for payment of the sum of £5,680.00. The Applicant explained that since he had lodged this application, he had received the monthly rental payments in full direct from the Department of Work and Pensions. The Respondents had made four payments, each of £20.00, in respect of the arrears, hence the reduced arrears figure in respect of which he sought an order.

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 has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondents) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the rent arrears statement, and the Applicant's submissions, and was satisfied that this disclosed an outstanding balance due by the Respondents to the Applicant in respect of rent arrears of £5,680.00 as sought. Clause 4 of the lease agreement provided that rent of £500.00 per month is payable in advance. Accordingly, the Tribunal made an order for payment of the sum sought.

Decision

In these circumstances, the Tribunal made an order for payment by the Respondents jointly and severally to the Applicant of the sum of £5,680.00.

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.

N. Kinnear

23 November 2021

Legal Member/Chair

Date