



**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/22/0797

Re: Property at 52 Muir Street, Larkhall, ML9 2BQ (“the Property”)

Parties:

**Scott Building Services, 4 Middleton Avenue, Strutherhill Industrial Estate,
Larkhall, ML9 2TL (“the Applicant”)**

Mr Peter McFarlane, 42 Fairholm Street, Larkhall, ML9 1DJ (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatridge (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to grant an order for payment of £3,055.89 by the
Respondent in favour of the Applicant.**

A Procedural Background:

This is an application for a payment order under Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (the rules) dated 28 January 2022.

The Applicant submitted the following documents:

1. Tenancy agreement between the parties for the property 20 September 2007.
2. Rent statement up to 7 February 2022 showing arrears of £3,055.89 with full payment history
3. Copy Guardianship Order for the Respondent dated 20 August 2021.
4. Email to OPG by Applicant's representative 15 March 2022
5. Various letters and emails to the joint guardians from ELT Lettings Ltd
6. Documentation showing the structure of the Applicant business.

7. Authorisation of re representative by the director of the Applicant company dated 15 April 2022.

On 24 May 2022 the Tribunal served on the Respondent by Sheriff Officers the notification of the Case Management Discussion (CMD) on 12 July 2022 at 11:30. The relevant notice had thus been given in terms of Rule 17 (2) of the rules .

No representations were received from the Respondents.

The documents are referred to for their terms and held to be incorporated herein.

B The Case Management Discussion:

A CMD was held on 12 July 2022. Ms Young on behalf of the Applicant attended. The Respondent did not participate and was not represented. The Respondent had not lodged any representations. The Legal Member summarised the purpose of the CMD under Rule 17 and advised that a decision can be made in terms of Rule 18 if all relevant facts are agreed at the CMD and it is not contrary to the interests of the parties to do so.

Ms Young confirmed that on behalf of the Applicant contact was made with the guardians of Respondent who did not engage in any meaningful correspondence. One guardian had sent a proposal to set up a payment plan at £5 in November 2021 but not made further arrangements when asked about frequency and start of payments and after the papers had been served on the Respondent Ms Laura McFarlane had contacted the Applicant representative to suggest payments of £15 but after representative had asked for an initial payment no further reply had been received. The contact at that time made it clear the guardian was aware of the application and CMD. Ms Young further explained that the payments shown in the payment history, in particular the last two payments, are housing benefit payments. There was in fact no deposit paid by the Respondent and thus no further deductions were due. The sum shown on the statement and payment history was the actual final sum due.

C Findings in Fact:

Based on the evidence lodged and the representations of Mr Simpson at the CMD the FTT makes the following findings in fact:

1. The parties entered into an Assured Tenancy for the property starting at commencing 20.9.2007. This ended after eviction of the Respondent on 14 January 2022 following an order for by the Tribunal in case FTS/HPC/EV/21/2179 dated 3.11.221
2. In terms of Clause Third of the tenancy agreement the monthly rent is payable in advance at the rate of £390 per month
3. As at 7 February 2022 the arrears of rent for the property were £3,055.89
4. The arrears are still outstanding as at the date of the CMD.

D Reasons for the Decision:

1. The Tribunal make the decision on the basis of the written evidence lodged and the evidence of the Applicant's representative at the CMD.
2. The Tribunal did not consider that there was any need for a hearing as there had been no defence lodged by the Respondent and the application had not been opposed. In terms of Rule 18 of the Rules of Procedure the Tribunal is satisfied that it is not contrary to the interests of the parties to make a decision at the CMD and that the information available in document form and from the Applicant's Representative at the CMD allows sufficient findings to determine the case.
3. The Respondent had been served the case papers including the rent statement showing the final amount of outstanding rent £3,055.89 up to and including 7 February 2022. The Respondent had fair notice of the representations of the Applicant forming the reasons for the application and the arrears amount and had not challenged these. The Tribunal thus considers that the Respondent did not dispute the facts set out in the case documentation.
4. The Applicant is entitled to payment of the sum of £3,055.89 rent arrears for the rental period up to and including 14 January 2022.
5. The Tribunal grants the order as rent lawfully due to the Applicant by the Respondent had not been paid.

E Decision

The Tribunal grants an order for payment of £3,055.89 by the Respondent favour of the Applicant.

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

P. H

Petra Hennig McFatridge

Legal Member/Chair

12 July 2022

Date