



**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/19/1640

Re: Property at 11 Cromarty Avenue, Bishopbriggs, G64 1YA (“the Property”)

Parties:

Mrs Parmjit Kaur, 14 Sella Road, Bishopbriggs, G64 1UZ (“the Applicant”)

**Mrs Sajida Parveen Sarwar, formerly residing at 11 Cromarty Avenue,
Bishopbriggs, G64 1YA, and whose present whereabouts are unknown (“the
Respondent”)**

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application for a payment order dated 24th May 2019 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 and expenses of £7,384.13 in relation to the Property from the Respondent, and provided with her application copies of the tenancy agreement, rent arrears statement and relevant invoices.

The Applicant subsequently amended the amount sought in this application to the figure of £12,966.50, representing the amount owed as at 19th August 2019.

The 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 Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 14th July 2019, and the Tribunal was provided with the execution of service.

A Case Management Discussion was held on 19th August at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was represented by Mr de Ste Croix, solicitor. The Respondent did not appear, nor was she represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was addressed by Mr Ste Croix in relation to a conjoined eviction application, being reference FTS/HPC/EV/19/1636, which was adjourned by the Tribunal for further legal submissions to be made.

Mr de Ste Croix submitted that it would be appropriate to adjourn this application also, to the same date as the eviction application, and the Tribunal was content that this was a sensible approach to adopt and did so for that reason.

Continued Case Management Discussion

A continued Case Management Discussion was held on 8th October 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was again represented by Mr de Ste Croix, solicitor. The Respondent again did not appear, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

Mr de Ste Croix explained that the Respondent had now quit the Property, having left approximately one week ago. As a result, the eviction application had been withdrawn.

Mr de Ste Croix produced an up-dated rent arrears statement which disclosed arrears amounted to £11,184.13 to the date when the Respondent quit the Property.

In addition, Mr de Ste Croix sought legal costs incurred by the Applicant in connection with this application, for which the Respondent is liable in terms of clause 1.18(c) of the tenancy agreement. He referred the Tribunal to invoices from his firm to the Applicant previously lodged, together with an up-dated statement in respect of further work carried out since the application was lodged.

Mr de Ste Croix had removed from the sum sought in that regard elements of work which related to the withdrawn eviction application, which resulted in a legal costs figure of £970.00.

Finally, Mr de Ste Croix produced an execution of service of a form AT6 upon the Respondent served on 11th September 2019, which confirmed that the Respondent

was still residing at the Property at that date. The Tribunal had intimated this continued Case Management Discussion to the Respondent by recorded delivery letter to her at the Property dated 28th August 2019.

The Tribunal was invited by Mr de Ste Croix with reference to the application and papers to grant an order for payment of £12,154.13, comprised of the rent arrears figure and the legal costs figure above-mentioned.

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

The Tribunal considered the terms of the tenancy agreement, the copy rent arrears statement, copy invoices for legal costs, and Mr de Ste Croix's submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicant of £12,154.13.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £12,154.13.

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

Legal Member/Chair

08/10/19

Date