

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) In respect of an application under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 111 of the Rules**

**Chamber Ref: FTS/HPC/CV/23/3875**

**Re: Property at 67/3 Boswall Parkway, Edinburgh, EH5 2PP (“the Property”)**

**Parties:**

**Mr Ross Heinsar, 21 Boswall Gardens, Edinburgh, EH5 2BN (“the Applicant”) per his agents Direct Lettings of 5-6 Melville Place Edinburgh EH3 7PR (“the Applicant’s Agents”)**

**Ms Emma Miller residing at 75 Wester Drylaw Place, Edinburgh, EH4 2TL (“the first-named Respondent”) and Ms Jenna Murray present whereabouts unknown (“the second-named Respondent”)**

**Tribunal Member:**

**Karen Moore (Legal Member)**

**Decision (in absence of the second-named Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order in the sum of Three Thousand Seven Hundred and Ninety Six Pounds and Seventy Two Pence (£3,796.72) Sterling be granted.**

**Background**

1. By application received between 2 November 2023 and 01 December 2023 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for payment of rent due and owing arising from a private rented tenancy between the Applicant and the first-named Respondent and in respect of which the second-named Respondent acts as a guarantor. The Application comprised a copy of the tenancy agreement and rent increase notices and a rent statement showing £1,798.00 due and owing at November 2023. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 5 April 2024 at 14.00 by telephone conference.

2. Prior to the CMD, the Applicant's Agents amended the sum sought to £4,221.72 to 27 November 2024, being the end date of the tenancy.

### **CMD**

3. The CMD took place on 5 April 2024 at 14.00 by telephone. The Applicant did not take part and was represented by Ms. J. McAinsh of the Applicants' Agents. The first-named Respondent, Ms. Miller, took part and was not represented. The second-named Respondent did not take part and was not represented. The Tribunal had certification that the Application was served on her by advertisement and so the Tribunal proceeded in her absence.
4. At the CMD, the first-named Respondent, Ms. Miller, accepted that she owes rent but stated that the amount was less than that sought as she had paid £450.00 in October 2023 which was not reflected in the rent statement.
5. The Tribunal adjourned the CMD briefly to allow the amount to be verified by Ms. McAinsh. The CMD reconvened and Ms. McAinsh confirmed that a payment of £425.00 had been paid in October 2023 and that the sum sought is £3,796.72.
6. Ms. Miller accepted that this sum is due and owing by her. She stated that she had offered a payment plan to the Applicant but he had refused this as it would take too long to pay the debt. Ms. Miller said that she could not afford to make payment in under two years. She stated that she is a student with a disabled son. The Tribunal advised that time to pay directions require debts to be paid in around a year. Ms. Miller advised that she could not commit to that arrangement. She maintained that the effect of the Order would be that it would take her more time to pay the rent due and would not benefit the Applicant.
7. Ms. Miller stated that she was aggrieved at an Order being granted as she considered that the Applicant had harassed her causing her to leave her job and that this should be taken into account. The Tribunal advised that there was no scope for a counter-claim but that Ms. Miller could make a separate claim for loss against the Applicant.

### **Findings in Fact**

8. From the Application and the CMD, the Tribunal made the following findings in fact:-
  - i) There is a tenancy of the Property between the Applicant and the first-named Respondent;
  - ii) The first-named Respondent owes a debt of £3,796.72 in respect of in respect unpaid rent and accepts responsibility for this debt;
  - iii) The first-named Respondent is unable to pay the debt within a reasonable timescale;
  - iv) The second-named Respondent is a guarantor for payment of the debt;

- v) The Applicant is entitled to an Order for £3,796.72 against both Respondents.

### **Decision and reasons for the decision**

9. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussion .....including making a decision” Having found in fact that the Respondents are due and owing to the Applicant for the sum of £3,796.72, the Tribunal proceeded to make an order for payment in this sum.

### **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.**

# Karen Moore

Legal Member/Chair

  5 April 2024  
Date