

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



**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/19/3888**

**Re: Property at 9 Bell Crescent, Sanquhar, DG4 6AL (“the Property”)**

**Parties:**

**Mrs Nicole Muller, 3 Ridge Manor, Leith Road, Bartlett, Boksburg, Gaunteng,  
South Africa (“the Applicant”)**

**Miss Tamzyn Baird, 9 Bell Crescent, Sanquhar, DG4 6AL (“the Respondent”)**

**Tribunal Members:**

**Maurice O'Carroll (Legal Member)**

**Decision (in the absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Applicant should be granted a payment Order in  
the sum of £5,145 (Five Thousand One Hundred and Forty Five Pounds) Sterling.**

**Background**

1. By application received on 5 December 2019, the Landlord sought an Order for repayment of rent arrears in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.
2. A Case Management Discussion (“CMD”) was held at 11.30am at Sanquhar Town Hall, Church Road, Sanquhar on 17 February 2020. Mr Kenneth McLean of Messrs Pollock and McLean, solicitors appeared on behalf of the Applicant. There was no appearance by the Respondent or anyone on her behalf.
3. The Chairman was in receipt of a Certificate of Intimation dated 15 January 2020 which verified that the Respondent had been duly served with the CMD papers and had been informed on the time (being 11.30 am) and venue for the hearing and also that anything that could be done at a full hearing could also be done at a

CMD. Accordingly, the Chairman decided to proceed with the CMD in the absence of the Respondent at 11.30am.

4. The CMD concluded with the Order having been granted for the reasons stated below. At the end of the CMD, once the Tribunal had indicated that it was prepared to grant the Order, Mr McLean left the building. Following Mr McLean leaving the venue of the CMD, the Respondent appeared some time after 11.35am. Since the Order had been granted and Mr McLean for the Applicant had left the building, it was not possible to hear the Respondent. The Order therefore stands.
5. It is recommended that the Respondent seek legal advice in the event that she had in fact a substantive defence to the application for the Order, or had wished to seek time to pay.

### **Discussion at the CMD**

6. Mr McLean confirmed that the parties had entered into a Short Assured Tenancy on 9 June 2017. The rent payable was £350 per calendar month, payable on the 22<sup>nd</sup> of each month commencing 22 June 2017. The claimant is in receipt of housing benefit which is paid to her directly. She has been persistently in arrears and despite efforts to obtain payment, rent arrears totalling £5,140 had built up by the date of the application. Mr McLean provided a schedule of payments and arrears to vouch the position.

### **Findings in fact**

7. The Tribunal found the following facts to have been established from the evidence of Mr McLean and in respect of the papers before it:
  - The parties entered into a Short Assured Tenancy on 9 June 2017
  - A monthly rent was due in the sum of £350
  - By the time of the application to the Tribunal, the arrears of rent amounted to £5,140 and this remained the position as at the date of the CMD
  - The Applicant's application had been properly served on and notified to the Respondent

### **Statement of reasons**

8. Based upon the above findings in fact, the Tribunal is satisfied that an Order for payment of the sum of £5,140 should be made in favour of the Applicant. An Order will therefore be granted as at the date of the CMD for that 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.

M. O'C.

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Legal Member/Chair

17/2/20  
\_\_\_\_\_  
Date