



**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/21/2638**

**Re: Property at Greenacres, Polmont, Falkirk, FK2 0XS (“the Property”)**

**Parties:**

**Klondyke Properties Ltd, Unit 3 Gateway Business park, Beancross Road, Grangemouth, FK3 8WX (“the Applicant”)**

**Mr David Machray, Mrs Michelle Machray, Greenacres, Polmont, Falkirk, FK2 0XS (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £5360 (FIVE THOUSAND THREE HUNDRED AND SIXTY POUNDS).**

**Background**

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The application was dated 21<sup>st</sup> October 2021. The Applicant is seeking an order for payment of the sum of £5360 in terms of s16 of the Housing (Scotland) Act 2014.
2. On 22<sup>nd</sup> February 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 6<sup>th</sup> April 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 15<sup>th</sup> March 2021.

3. On 23<sup>rd</sup> February 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents personally. This was evidenced by Certificate of Intimation dated 23<sup>rd</sup> February 2022.
4. On 29<sup>th</sup> March 2022, an updated rent statement was lodged for the period 1<sup>st</sup> July 2018 to 1<sup>st</sup> March 2022.

### Case Management Discussion

5. A CMD was held on 6<sup>th</sup> April 2022 at 2pm by teleconferencing. The Applicant was represented by Ms Seonaid Sandham, Associate Solicitor, Anderson Strathern. The Applicant did not attend. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make any representations in advance of the hearing.
6. Ms Sandham informed the Tribunal that the Respondents last paid a £880 payment in on 1<sup>st</sup> April 2022. Ms Sandham informed the Tribunal that she had spoken to Mrs Machray on 22<sup>nd</sup> February 2022. Ms Sandham had sent out a government style income and expenditure form on 21<sup>st</sup> January 2022. Mrs Machray then spoke to Ms Sandham on the telephone and advised that she had not received that form. She offered to make payments of £50 per month. Ms Sandham noted that the income and expenditure would need to be assessed but that it was her own choice if she wished to make any payments to the arrears in advance of such a decision. Ms Sandham then sent out the duplicate income and expenditure form on 25<sup>th</sup> February 2022. She has not had further contact from the Respondents since. There have been no payments to address the arrears.
7. Ms Sandham was not aware of any outstanding Universal Credit/Housing Benefit issues. On her telephone call with Mrs Machray on 22<sup>nd</sup> February 2022, Ms Sandham was told that Mr Machray was working but that Mrs Machray was on benefits. She was not told any other information.
8. Ms Sandham was not aware of any issues of reasonableness. She believes that the missed payments were due to covid reasons when Mr Machray lost his job. The Tribunal noted that the missed payments were over 4 periods. These are namely September 2019, April 2020, May 2020, June 2020, April 2021, October 2021 and November 2021. With the exception of April 2019 when only £80 was paid, there was no rent paid on those dates. The Tribunal did not find that this was consistent with one period of unemployment. Ms Sandham did not believe that there were any direct payments of Universal Credit paid to the Applicant.

### Findings in Fact

9. The parties entered into a Short Assured Tenancy on 1<sup>st</sup> May 2014 for an initial 6 month period. The lease was signed on 12<sup>th</sup> May 2014. The rent payments of £800 were due by the 1<sup>st</sup> day of each month. On 1<sup>st</sup> August 2018 the rent was increased to £880 per month.

10. The Housing and Property Chamber received an Application signed 21<sup>st</sup> October 2021.
11. The Respondents have persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £5360, beyond that which was sought in the application.
12. There are no outstanding Housing Benefit issues.
13. There are no issues of reasonableness.
14. The arrears due to the Applicant amounts to £5360.

### Reasons for Decision

15. The Respondents have failed to make payments of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 1<sup>st</sup> July 2018 to 1<sup>st</sup> March 2022 in which payments have been missed amounting to £5360 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondents have persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £5360 against the Respondents.

### Decision

16. The Applicant is entitled to an order of payment of £5360 by the Respondents. The Order was granted against the Respondents.

### **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.**

# G. Miller

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Legal Member/Chair

6th April 2022

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Date