



**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/22/0649

**Re: Property at 44 BRUNTSFIELD CRESCENT, DUNBAR, EH42 1QZ (“the
Property”)**

Parties:

**Mr GERARD BENT, c/o 34 WOODLANDS ROAD, GLASGOW, G3 6UR (“the
Applicant”)**

**Mr ANTHONY KEARNEY, Elizabeth McAndrew also known as Donna
McCafferty also known as Louise Hanscombe, 44 BRUNTSFIELD CRESCENT,
DUNBAR, EH42 1QZ (“the Respondents”)**

Tribunal Members:

Rory Cowan (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that a Payment Order in the sum of £6,171.00 should be
granted in favour of the Applicant against the Respondents.**

- Background

By application dated 25 February 2022 (the Application), the Applicant sought a payment order against the Respondents for rent arrears accrued after 23 August 2021. A previous Payment Order relative to the Property was granted for arrears up to that date under case reference FTS/HPC/CV/21/0256. With the Application, the Applicant produced:

- a) Copy Tenancy Agreement dated 23 January 2014;
- b) Copy Rent Increase notice dated 21 May 2020;
- c) Rent Schedule showing arrears to February 2022; and
- d) newspaper articles relative to the second named Respondent.

After acceptance by Tribunal administration, the Application was served on the Respondents by sheriff officers on 6 April 2022.

- The Case Management Decision

Following acceptance of the Application a Case Management Discussion (CMD) was fixed for 25 May 2022 to be heard by way of WebEx video conference. Details of the video conference and guidance on how to participate in the WebEx meeting were sent to all parties including the Respondents. At the CMD, the Applicant appeared and was represented by a Miss Bruce, trainee solicitor. The Respondents did not appear, nor were they represented. There was no contact from either indicating any difficulty with participating in the CMD and the Tribunal were satisfied that they knew of the CMD, of their requirement to participate and therefore decided it was appropriate, in the circumstances, to proceed in their absence.

The Tribunal sought to clarify matters with the Applicant. The Form F suggested a different figure to the paper apart attached to it and the rent schedule produced. Miss Bruce confirmed the correct amount was £6,171.00. As there was no prejudice to the Respondents in the lower amount being sought, the Tribunal was of the view there was no requirement to consider a continuation of the CMD. It was also noted that the rent arrears had increased by a further £3,085.50. Notwithstanding, the Applicant did not seek to continue the CMD to allow an amendment application to be lodged. It was also confirmed that, even though the lease provided for contractual interest, as the Application did not seek that this be applied to any sum awarded, no continuation would be sought to allow the Application to be amended to include that. As such, Miss Bruce sought a Payment Order in the sum of £6,171.00 being the further arrears of rent accrued since 24 August 2021 and up to 23 February 2022.

- Findings in Fact and Law

- 1) The Applicant and Respondents entered into a tenancy agreement relative to the Property.
- 2) In terms of the agreement between the Applicant and Respondents the rent payable from July 2020 was £1,028.50 per month
- 3) As at 23 February 2022, the Respondents have accrued further rent arrears from 24 August 2021 to the extent of £6,171.00.
- 4) That the Applicant is entitled to a Payment Order in the sum of £6,171.00.

- Reasons for Decision

In terms of the agreement between the parties, from July 2020 the Respondents are due to pay rent relative to the Property at the rate of £1,028.50 per month. As at 23 February 2022 they are in further arrears to the extent of £6,171.00 for the period from 24 August 2021 to 23 February 2022.

- Decision

That a Payment Order in the sum of £6,171.00 be issued in favour of the Applicant 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.

Rory Cowan
Legal Member/Chair

25 May 2022
Date