

**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 ('the Act') and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ('the Rules')**

**Chamber Ref: FTS/HPC/CV/19/0387**

**Re: Property at 30 Vancouver Road, Eastriggs, Dumfriesshire ('the Property')**

**PARTIES:**

**Mr Jason Taylor, 50D Sunnyside Road, Coatbridge, North Lanarkshire, ML5 3DG  
(*'the Applicant'*)**

**Mr Christopher Thoburn and Mrs Lesley Thoburn, Mur Ann, Belmont Avenue, Eaglesfield, DG11 3PN  
(*'the Respondents'*)**

**TRIBUNAL MEMBER:**

**Joseph C Hughes (Legal Member/Chair)**

**Decision [In absence of the Respondents]**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined that the Respondent must pay the Applicant the sum of ONE THOUSAND THREE HUNDRED AND FIFTY NINE POUNDS AND SIXTY SEVEN PENCE (£1359.67) STERLING in respect of rent arrears and interest therein.**

**The Order for Payment will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

**BACKGROUND**

1. This is an Application under Rule 70 of the Rules. The Applicant is seeking an Order for Payment of unpaid rent under the tenancy agreement between the parties. The Application was accompanied by a copy of the written tenancy agreement with various supporting documents. The Applicant is the Landlord

of the Property. The Respondents were previously the Tenants of the property.

The Legal Member has no conflict of interest in respect of this case.

## THE HEARING

2. Mr Jason Taylor, the Landlord of the property, attended. The Respondents did not attend. They had intimated that due to work and childcare commitments they would not be able to attend.
3. The case called today as a Case Management Hearing ('CMD'). The Respondents were served with intimation by sheriff officers on 14<sup>th</sup> March 2019.
4. The tribunal is satisfied that parties have been notified of the CMD. Parties have been advised that the tribunal could determine the matter at the CMD if satisfied that it had sufficient information and it was fair to do so.
5. The tribunal found that the Respondents had entered into the tenancy of the Property by lease commencing 16<sup>th</sup> September 2017 with a rent of £495 per calendar month, paid in advance. The amount of arrears is £1315. The Applicant lodged written evidence of this calculation. The Applicant is also seeking interest on rent arrears at the rate of 4 per cent per annum (as stated within the Short Assured Tenancy Agreement). The amount of interest sought is £44.67. The total sought is therefore £1359.67.
6. In the absence of any contrary evidence, the tribunal was content to accept the Applicant's evidence regarding the amount of rent arrears outstanding and the interest due.
7. The tribunal was content to utilise the power contained within Rule 17(5) of the Rules which allows a tribunal to make a final decision on an application at a Case Management Discussion.
8. The tribunal was satisfied that the rent arrears and related interest were due and granted the Order for Payment.
9. The tribunal was satisfied that to grant the Order was in accordance with the interests of justice and the Overriding Objective.

The tribunal was very flexible in its approach to the proceedings.

## FINDINGS IN FACT

10.
  - (a) The Respondents had previously been the tenants of the Property. The tenancy commenced on 16<sup>th</sup> September 2017;

- (b) The Respondents were legally liable to pay rent as it fell due. The rent was £495 per calendar month;
- (c) The Respondents have failed to pay all rent lawfully due. £1315 is outstanding;
- (d) The Respondents are liable for interest at the rate of 4 per cent per annum in respect of unpaid rent as stated within the Short Assured Tenancy Agreement. The amount sought is reasonable amounting to £44.67;
- (e) The Respondents were served with intimation of the CMD by sheriff officers on 14th March 2019;
- (f) The Respondent, Mrs Lesley Thoburn, emailed the tribunal stating that the Respondents 'would like to pay £200 a month starting in April';
- (g) The Respondents are liable for the rent arrears claimed, namely £1315 and interest of £44.67, totalling £1359.67

## REASONS FOR DECISION

11. The Appellant produce evidence on non-payment of the rent in the form of documentary evidence. The tribunal was satisfied on the basis of the documentary productions, supporting oral evidence and submissions made on behalf of the Appellant, that the Respondents are in arrears of rent. It is appropriate for the Respondents to pay the Applicant interest of rent arrears at the rate stated within the Short Assured Tenancy Agreement, namely 4 per cent per annum.

## DECISION

12. An Order is made for Payment of the sum of **ONE THOUSAND THREE HUNDRED AND FIFTY NINE POUNDS AND SIXTY SEVEN PENCE (£1359.67) STERLING** by the Respondents to the Applicant.

## 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.**

J.C. Hughes

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**'Joseph C Hughes'**  
**Legal Member/Chair**

**4<sup>th</sup> April 2019**