



**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/21/1446**

**Re: Property at Flat 2/1, XXX, Cathcart, Glasgow, G44 XXX (“the  
Property”)**

**Parties:**

**Nevis Properties Limited, 6th Floor, Gordon Chambers, 90 Mitchell Street,  
Glasgow, G1 3NQ (“the Applicant”)**

**Miss Kellyann Heffernan, Mr Lee Robertson, Flat 2/1, XXX,  
Cathcart, Glasgow, G44 XXX; 31 McTaggart Crescent, Motherwell, ML1 4ZH  
 (“the Respondents”)**

**Tribunal Members:**

**George Clark (Legal Member) and Janine Green (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the application should be decided without a Hearing  
and made an Order for Payment by the Respondents to the Applicant of the sum  
of £3,900. The Applicant’s request for interest and expenses was refused.**

By application, received by the Tribunal on 15 June 2021, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the First-named Respondent and for which the Second-named Respondent was Guarantor. The sum sought was £1,950.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between Places for People Homes Limited and the First-named Respondent, commencing on 14 December 2018 at a rent of £650 per month, payable in advance on the first day of each month. The Second-named Respondent signed the Agreement on 13 December 2018 as a Guarantor for, *inter alia*, payment of the rent by the First-named Respondent. The Applicant also provided the Tribunal with a Rent Statement showing arrears as at 1 June 2021 of £7,800, including the rent that had fallen due on 1 June.

In the application, the Applicant stated that on or around 4 September 2020, Places for People had sold the Property and assigned their interest in the Tenancy Agreement to the Applicant. The First and Second-named Respondents had been advised of this. At this point, the rent was in arrears to the extent of £3,396.01. The arrears were now £7,150, being the rent due for July, August, September, November and December 2020 and for January, February, March, April and May 2021. The Tribunal had, in an earlier application, made an Order for Payment against the Respondent for £5,200, for the period to 1 February 2021. The amount of arrears in the application did not include the rent that had fallen due on 1 June 2021.

On 3 August 2021, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 24 August 2021. The First-named Respondent submitted written representations on 11 August 2021. She contended that the Second-named Respondent had not been advised of the sale until there had been a dispute over rent, so had no liability as Guarantor after the date of the sale, that repairs to the front door of the Property had left it without a chain or peep-hole, that there was no Gas Safety Certificate, and that there had been no working smoke alarm for some time, as she had disconnected it because it was unsafe. She had been scared of the gas engineer who had carried out some repairs and thought that it would be the same person that would be used for the Gas Safety Certificate. She wanted to find a new home not too far away from her family, as she needed them nearby due to her health, but the market in that area was very small.

The Second-named Respondent made no representations to the Tribunal.

On 11 August 2021, the Applicant submitted an application to amend the sum sought to £3,900, to include rent that had become due in June, July and August 2021.

### **Case Management Discussion**

A Case Management Discussion was held by means of a telephone conference call on the morning of 6 September 2021. The Applicant was represented by Mr David Boag of Harper Macleod LLP, solicitors, Glasgow. Neither Respondent was present or represented.

Mr Boag told the Tribunal that no rent had been received since the date of the application. The arrears now stood at £9,100, £5,200 of which was included in the Order for Payment made by the Tribunal in an earlier case. He said that the First-named Respondent's representations did not deal at all with the central issue, which was the non-Payment of rent. The Applicant stated that the First-named Respondent had not agreed to scheduled visits by contractors and no rent at all had been paid since October 2020.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to decide the application without a Hearing.

The Tribunal noted the terms of the Tenancy Agreement, which states - "The Guarantor guarantees all payments of rent, any other obligations under this Agreement, and any other payments due to the Landlord which the Tenant is required to pay under this Agreement, and liability continues in respect of any payment due but not paid even after the termination of this Agreement or any alteration to this

Agreement.” The Tribunal agreed with and adopted the reasoning of the Tribunal in in a previous case between the Parties (Chamber ref: FTS/HPC/CV/20/2641), where the Tribunal held that the Second-named Respondent remained a Guarantor notwithstanding the change of ownership of the Property.

The Tribunal was satisfied that the sum sought had become lawfully due by the First-named Respondent to the Applicant and that the Second-named Respondent was liable as Guarantor for the unpaid rent.

The Tribunal noted that the Tenancy Agreement did not make any provision for interest on unpaid rent and refused the application for interest. The Tribunal also determined that it would refuse the application for expenses. The Tenancy Agreement contained provisions for recovery of expenses in the event of breach of Clause 8, relating to Notification About Other Residents, but not in relation to recovery of unpaid rent.

### **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.**

# George Clark

6 September 2021

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Legal Member/Chair

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Date