



**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/19/1942**

**Re: Property at 10/9 Handyside Place, Edinburgh, EH11 1ZH (“the Property”)**

**Parties:**

**Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)**

**Mr Edward Brown, 10/9 Handyside Place, Edinburgh, EH11 1ZH (“the Respondent”)**

**Tribunal Members:**

**Eleanor Mannion (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

1. A Case Management Discussion (“CMD”) was scheduled for the 10<sup>th</sup> October 2019. This followed a previous CMD which took place on the 19<sup>th</sup> August 2019 at which an issue arose in respect of the Short Assured Tenancy Agreement. The issue arose as the Property was owned at that time by Dunedin Canmore Housing Limited but the Short Assured Tenancy Agreement appeared to be between Dunedin Canmore Enterprise Limited and the Respondent. The Applicant was asked to provide documentation to evidence the role of Dunedin Canmore Enterprise Limited and whether they were acting on the authority of Dunedin Canmore Housing Limited.
2. On the 3<sup>rd</sup> October 2019, the Applicant lodged the following documents with the Tribunal offices:
  - a. Letter from Dunedin Canmore Housing Limited dated 2<sup>nd</sup> October 2019
  - b. Copy Inter-Company lease between Dunedin Canmore Housing Limited and Dunedin Canmore Enterprise Limited dated 31 March 2013 inc addenda

- c. Copy lease between Dunedin Canmore Housing Limited and Lowther Homes Limited dated 29 March 2019
  - d. Copy letter to Respondent re rental increase dated 25 January 2019
  - e. Copy letter to Respondent re rental increase dated 20 February 2019
  - f. Updated rent statement as at 3<sup>rd</sup> October 2019
3. These papers were also sent to the Respondent at the same time.
  4. The CMD proceeded on the 10<sup>th</sup> October 2019. The Applicant was represented by Ms Umera Rashid, trainee solicitor of TC Young solicitors. The Respondent was not in attendance. Additional time was given at the outset of the hearing to give the Respondent the opportunity to attend but he did not do so.
  5. Ms Rashid made submissions on the papers lodged on the 3<sup>rd</sup> October 2019, specifically the lease entered into as between Dunedin Canmore Housing Limited and Dunedin Canmore Enterprise Limited, stating that this was evidence of the authority of Dunedin Canmore Enterprise Limited to grant a Short Assured Tenancy to the Respondent on behalf of Dunedin Canmore Housing Limited. She also noted that the Short Assured Tenancy Agreement outlines at the outset that Dunedin Canmore Enterprise Limited is managing the property on behalf of Dunedin Canmore Housing Limited who is deigned "the Landlord". She submitted that if Dunedin Canmore Housing Limited is referred to as the Landlord throughout the lease, then the Landlord as the owner of the property is Dunedin Canmore Housing Limited with Dunedin Canmore Enterprise Limited acting in capacity of manager.
  6. The Tribunal asked Ms Rashid about a lease dated January 2009, referred to on the title page of the Short Assured Tenancy Agreement which purports to give the authority to Dunedin Canmore Enterprise Limited to manage the tenancy. After taking instructions from her principal agent, she confirmed that the 2009 lease referred to in the Short Assured Tenancy Agreement could not be found but that the 2013 lease overtook the position of the 2009 lease. She submitted that along with the letter from Dunedin Canmore Housing Limited dated 2<sup>nd</sup> October 2019, there could be no dispute as to the fact that Dunedin Canmore Enterprise Limited had the authority to offer the Short Assured Tenancy Agreement. It was accepted that there were gaps in the documentation which is why a letter was provided by Dunedin Canmore Housing Limited which could be relied upon by the Tribunal.
  7. In respect of the rent arrears, Ms Rashid conceded that the Applicant was not seeking to rely on the rental increase which took effect on the 1<sup>st</sup> May 2019. She referred to a supplemental application made on the 25<sup>th</sup> September 2019 to amend the amount sought to £5,060. A copy of this application was provided to the Respondent at the same time as it was lodged with the Tribunal offices. No response was received from the Respondent. She also provided evidence in respect of the interest rate from the Bank of Scotland, which is 0.75% a point which arose at the previous CMD.
  8. It was noted that the Respondent previously accepted that a debt was due to the Applicant in respect of his occupation of the Property. No further representations were provided by the Respondent. A
  9. Ms Rashid indicated that her motion today was for a payment order along with interest at the rate 4.75% from the date of the hearing as provided for in paragraph 8 of the Short Assured Tenancy Agreement.

10. The Tribunal adjourned for a short period to consider the paperwork which had been lodged and the submissions made by Ms Rashid on behalf of the Applicant. On review of the notes of the previous CMD, it was noted that no formal representations were put forward by Mr Brown with regard to the application and he was advised to obtain legal advice and representation from organisations such as Citizens Advice Bureau, CHAI, Shelter or other housing rights organisations.
11. The Tribunal was satisfied based on the submissions made and paperwork lodged that there was a valid Short Assured Tenancy. Having considered the paperwork in respect of the outstanding rent, the acceptance by the Respondent that a debt was due, the lack of representations by the Respondent on the figures discussed and the rent statements showing the rental income due and owing the Tribunal decided to make a payment order in the amount sought.

### **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.**



**Legal Member/Chair**

10/10/19

**Date**