



**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/19/2051**

**Re: Property at 5 Lintburn Street, Galashiels, Scottish Borders, TD1 1HP (“the  
Property”)**

**Parties:**

**Ms Suzanne Kyle, 35 Borthaugh Road, Hawick, Scottish Borders, TD9 0DA  
 (“the Applicant”)**

**Mr Ben Andrew Cullum, 5 Lintburn Street, Galashiels, Scottish Borders, TD1  
1HP (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

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

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of ONE THOUSAND FOUR HUNDRED AND FIFTY POUNDS (£1450) STERLING. **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. By application dated 24 June 2019 the Applicant’s agent applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for

an order for payment of rent arrears under a Private Residential Tenancy at the Property.

2. On 17 July 2019, the Tribunal gave notification of acceptance of the application to the Applicant under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
3. On 26 November 2019, the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 17 December 2019. The Tribunal advised parties on 26 November 2019 that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 7 January 2020. Sheriff Officers were unable to serve this paperwork on the Respondent as his whereabouts could not be established. The CMD assigned for 7 January 2020 was accordingly discharged.
4. A further CMD was assigned for 4 February 2020. In terms of Rule 6A of the Regulations the application together with notification of this CMD was served on the Respondent by way of advertisement on the Tribunal’s website from 31 December 2019.

#### **Case Management Discussion.**

5. The Tribunal proceeded with the Case Management Discussion on 4 February 2020. The Applicant’s agents Mr and Mrs Borthwick from JB Lettings Ltd appeared on behalf of the Applicant. The Respondent did not appear and was not represented.
6. A copy of the Certificate of Service by Advertisement dated 4 February 2020 was produced by the Tribunal administration. In the circumstances the Tribunal was satisfied that valid service had been affected on the Respondent. The Tribunal accordingly proceeded with the CMD in the absence of the Respondent.
7. The Tribunal had before it a Private Residential Tenancy Agreement between the Applicant and the Respondent signed and dated 18 December 2018 and a rent statement from February – June 2019.
8. The Tribunal noted that in terms of Clause 8 of the tenancy agreement the Respondent had agreed to pay rent of £360 per month. Mrs Borthwick explained they believed the Respondent had possibly left the Property in or about April 2019, but they could not be sure. They believed he had lost his

job as a chef around about this time. She also explained that with reference to the rent statement the Respondent had first stopped paying rent in February 2019, but had paid rent and his deposit up to then. The rent statement showed that he had made one payment of £350 on 1 March 2019. The rent statement showed arrears to June 2019 were £1450. In the circumstances she asked the Tribunal to grant an order for payment.

### **Findings in Fact**

9. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement dated 18 December 2018 in relation to the Property. The Respondent agreed to pay rent to the Applicant of £360 per month .
  
10. The Respondent paid the deposit and rent to February 2019 when he started to accrue arrears. He last paid rent of £350 to the Applicant on 1 March 2019. The Respondent has made no payments of rent due since that date.
  
11. Arrears of rent were £1450 as of 18 June 2019.

### **Reasons for Decision**

12. The Applicant's agent provided evidence of non-payment of rent in the form of the rent statement. The Tribunal was satisfied on the basis of the rent statement dated to 18 June 2019 and the supporting oral submissions made by the Applicant's agent that the Respondent is in arrears of rent.

### **Decision**

13. The Tribunal made an order for payment of rent arrears of £1450.

### **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.

**Shirley Evans**

**4<sup>th</sup> February 2020**

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**Legal Member/Chair**

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**Date**