



**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/19/0412**

**Re: Property at 72 Broomfield Crescent, Edinburgh, EH12 7LX (“the Property”)**

**Parties:**

**Mactaggart & Mickel Homes Limited, c/o DJ Alexander Lettings Ltd, 1 Wemyss  
Place, Edinburgh, EH3 6DH (“the Applicant”)**

**Miss Ada Pagan, 72 Broomfield Crescent, Edinburgh, EH12 7LX (“the  
Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the application should be granted without a Hearing  
and made an Order for Payment by the Respondent to the Applicant of the  
sum of £6,300.**

**Background**

By application, received by the Tribunal on 7 February 2019, the Applicant sought an Order for Payment in respect of arrears of rent that had become lawfully due by the Respondent in respect of the Property.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties commencing on 5 April 2005 at a rent of £530 per month and a Rent Statement, which was subsequently updated to show arrears as at 12 August 2019 of £5,670.

On 21 March 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 8 April 2019. The Respondent did not make any written representations, but on 11 April 2019, City of Edinburgh Council advised the Tribunal that she had been in hospital since December 2018 and that the Council were putting in place an application for welfare guardianship.

The Case Management Discussion on 12 April 2019 was continued pending confirmation of the proper management of the Respondent's affairs. A further Case Management Discussion was held on 6 June 2019 at which a social worker appeared for the Respondent and confirmed that the Respondent was still in hospital and that she had been unable to instruct a solicitor because of lack of capacity. The case was continued again to allow Welfare Guardianship and Financial Intervention Orders to be granted. The Tribunal was told that the Respondent wished to return to the Property and had the funds to meet the outstanding rent.

The reconvened Case Management Discussion took place at George House, 126 George Street, Edinburgh on the morning of 26 August 2019. The Applicant was represented by Mr Steve Robbins of DJ Alexander Lettings Ltd. The Respondent was not present or represented.

Mr Robbins told the Tribunal that he understood the Respondent was still in hospital and that she was contesting the application for a Welfare Guardianship Order. His clients had tried very hard to work with the social work department while the Welfare Guardianship Order was in process of being obtained, but now felt that there might be a further considerable delay in resolving the situation, so he was asking the Tribunal to grant the Order for Payment without a Hearing. He confirmed that the arrears now stood at £6,300.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland (Procedure) Regulations 2017 states 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 and that it would determine the application without a hearing.

The Tribunal was satisfied that the sum sought was lawfully due by the Respondent to the Applicant and that an Order for Payment should, therefore, be made.

### **Decision**

The Tribunal determined that the application should be granted without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £6,300.

### **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

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Legal Member/Chair

26 August 2019

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Date