



**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/19/0824**

**Re: Property at 96 Whiteside Court, Bathgate, EH48 2TN (“the Property”)**

**Parties:**

**Weslo Initiatives Limited trading as Weslo Property Management, 133A  
Glasgow Road, Bathgate, West Lothian, EH48 2QN (“the Applicant”)**

**Mr Jonathan Armitage, 75 Riddochhill Crescent, Bathgate, EH47 7LE (“the  
Respondent”)**

**Tribunal Members:**

**Ewan Miller (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order for payment in the sum of TWO  
THOUSAND ONE HUNDRED AND EIGHTY THREE POUNDS and 84p would be  
granted in favour of the Applicant against the Respondent**

**Background**

The Applicant had granted a lease to the Respondent of the Property. The Respondent had vacated the Property but, the Applicant alleged, there were arrears of rental, payment of which was sought.

The Tribunal had before it the following documents:-

- Application to the Tribunal from T C Young, Solicitors as the representative of the Applicant dated 12 March 2019;
- Copy Lease between Weslo Housing Management and Weslo Initiatives Limited
- Copy Tenancy Agreement between the Applicant and the Respondent
- A Rent Statement setting out the arrears

- Certificate of Confirmation of Service dated 11 April 2019 of the Tribunal papers on the Respondent

## **CMD**

A Case Management Discussion (CMD) was held at Glasgow Tribunals Centre, York Street, Glasgow on 1 May 2019. The Applicant was represented by Ms Caldwell of T C Young, Solicitors, Glasgow. The Respondent was neither present nor represented.

The Tribunal considered whether it was appropriate to carry on in the absence of the Respondent. The Tribunal noted that the papers had been served on the Respondent by Sheriff Officers. The Tribunal noted that the papers advised that a final decision could be made at a CMD and that a decision could be made in the absence of the Respondent. The Respondent had not communicated with the Tribunal or given any submissions. On that basis, the Tribunal saw no reason to delay matters and was content it was appropriate to make a decision on the day.

## **Findings in Fact**

The Tribunal found the following facts to be established:-

- The Applicant had entered in to a lease of the Property to the Respondent
- That lease obliged the Respondent to make payment of the rent at £575 per calendar month
- The Respondent had vacated the Property on 7 August 2018 with arrears of rental of £2404.84 outstanding
- The deposit paid by the Respondent had been offset against the arrears of rental, reducing these to £1,829.84
- The Applicant had incurred costs of £354 in pursuing the arrears against the Respondent

On the basis of the above facts and in the absence of any evidence to the contrary the Tribunal was satisfied that the Applicant was entitled to the payment order sought against the Respondent.

## **Reasons for the Decision**

The Tribunal noted that the Applicant had granted a lease to the Respondent with rental due of £575 per calendar month. The Tribunal did note that the Applicant was not the owner of the Property but they had taken a lease themselves of the Property (along with other properties) from Weslo Housing Management and sub-let to the Applicant

The Tribunal noted the rent arrears statement produced by the Applicant. There was no reason for the Tribunal not to accept this as a valid statement of the sums due under the lease at the point that it terminated. The deposit had been set off against the rental due and so the correct sum due appeared to be sought

The Tribunal noted that the sum of £354 was sought by the Applicant in reimbursement of their legal fees. The Tribunal noted that the lease allowed recovery of this sum from the Respondent as a matter of contract and therefore there was no reason not to grant this element.

The Respondent had not submitted any evidence to dispute the position set out by the Applicant. The Applicant was a housing association and the Tribunal had no reason to doubt the evidence put before it. On that basis the Tribunal was content to grant the order as 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.**

Ewan Miller

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**Legal Member/Chair**

4/5/2019  
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**Date**