

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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 ('the Act') and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ('the Rules')**

**Chamber Ref: FTS/HPC/CV/19/0946**

**Re: Property at 46 Hillview Street, Glasgow G32 7BQ ('the Property')**

**PARTIES:**

**Mrs Evelyn McGroarty, 53 Queens Avenue London N20 0JB ('the Applicant')**

**Represented by Ms Jennifer Grosvenor, Harper MacLeod LLP, The Ca'd'oro Building, 45 Gordon Street, Glasgow**

**Ms Tracey McGeachy present whereabouts Unknown ('the Respondent')**

**TRIBUNAL:**

**Joseph C Hughes  
Eilidh MacMillan**

**(Legal Member/Chair)  
(Clerk of the Tribunal)**

**DECISION [In absence of the Respondent]**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined that the Respondent must pay the Applicant the sum of TWO THOUSAND FIVE HUNDRED AND FORTY SIX POUNDS AND EIGHT PENCE (£2546.08) STERLING in respect of rent arrears and interest.**

**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. This is an Application under Rule 70 of the Rules. The Applicant is seeking an Order for Payment of unpaid rent under the tenancy agreement between the parties. The Application was accompanied by a copy of the written tenancy agreement with various supporting documents. The Applicant is the Landlord of the Property. The Respondent was previously the Tenant of the property.

The Legal Member has no conflict of interest in respect of this case.

## THE HEARING

2. Ms Jennifer Grosvenor, Solicitor (Harper Macleod LLP) attended on behalf of the Applicant. The Respondent did not attend.
3. The case called today as a Case Management Hearing ('CMD'). The Respondent's whereabouts in unknown and the case continues by means of Service by Advertisement. A Certificate of Service by Advertisement was lodged today (dated 18<sup>th</sup> July 2019). A copy was provided to Ms Grosvenor in advance of the case calling.
4. The tribunal is satisfied that parties have been notified of the CMD. Parties have been advised that the tribunal could determine the matter at the CMD if satisfied that it had sufficient information and it was fair to do so.
5. The tribunal found that the Respondent had entered into the tenancy of the Property by lease commencing 10<sup>th</sup> March 2015 with a rent of £540 per calendar month, paid in advance. The amount of arrears is £2430.63. The Applicant lodged written evidence of this calculation. The Applicant is also seeking interest on rent arrears. The amount sought in respect of interest is £115.45. The total sought is therefore £2546.08.
6. In the absence of any contrary evidence, the tribunal was content to accept the Applicant's evidence regarding the amount of rent arrears outstanding and the interest due. The current rent arrears is now £4590.63. Housing Benefit ceased was last paid in March 2019. There is a pattern of historical non payment of the rent. The current whereabouts of the Respondent is unknown. The property appears to have been vacated. The furniture has been removed. Neighbours have not reported seeing the Respondent.
7. The tribunal was content to utilise the power contained within Rule 17(5) of the Rules which allows a tribunal to make a final decision on an application at a Case Management Discussion.
8. The tribunal was satisfied that the rent arrears and related interest were due and granted the Order for Payment.

9. The tribunal was satisfied that to grant the Order was in accordance with the interests of justice and the Overriding Objective.

The tribunal was very flexible in its approach to the proceedings.

## FINDINGS IN FACT

- 10.
- (a) The Respondent had previously been the tenant of the Property. The tenancy commenced on 10<sup>th</sup> March 2015. The Applicant is the Landlord of the property;
  - (b) The Respondent was legally liable to pay rent as it fell due. The rent was £540 per calendar month;
  - (c) The Respondent has failed to pay all rent lawfully due. The Application states the outstanding rent is £2430.63;
  - (d) The Respondent is liable for interest in respect of unpaid rent as stated within the Short Assured Tenancy Agreement. The amount sought is reasonable amounting to £115.45;
  - (e) The last Housing Benefit payment was received in March 2019;
  - (f) The Respondent was served with intimation of the CMD by way of Service by Advertisement. A Certificate of Service by Advertisement dated 18<sup>th</sup> July 2019 was produced by the tribunal;
  - (g) Evidence indicates the Respondent has abandoned the Property. She has not been located. She has failed to engage in the tribunal process. The furniture within the Property has been removed;
  - (h) There is a pattern on historical non payment of rent. The current rent arrears have now increased to £4590.63;
  - (i) The Respondent is liable for the rent arrears claimed within the Application, namely £2430.63 and interest of £115.45, totalling £2546.08.

## REASONS FOR DECISION

11. The Applicant produced evidence on non-payment of the rent in the form of documentary evidence. The tribunal was satisfied on the basis of the documentary productions, supporting oral evidence and submissions made on behalf of the Applicant that the Respondent is in arrears of rent. It is appropriate for the Respondent to pay the Applicant interest in respect of rent arrears. The sum sought for interest is reasonable.

## DECISION

12. An Order is made for Payment of the sum of **TWO THOUSAND FIVE HUNDRED AND FORTY SIX POUNDS AND EIGHT PENCE (£2546.08) STERLING** by the Respondent to the Applicant.

## 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.

Joseph Hughes



**'Joseph C Hughes'**  
**Legal Member/Chair [HPC]**

**18<sup>th</sup> July 2019**