



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 Housing (Scotland) Act  
2014**

**Chamber Ref: FTS/HPC/CV/20/0439**

**Re: Property at 99 Baird Hill, Murray, East Kilbride, G75 0EG (“the Property”)**

**Parties:**

**Franchville Investments Limited, c/o The Property Bureau, Melville House, 70  
Drymen Road, Bearsden, Glasgow, G61 2RH (“the Applicant”)**

**Mr Stephen Hyslop, Ms Michelle Drummond, 153 Leven Road, Coatbridge, ML5  
2LW; 99 Baird Hill, Murray, East Kilbride, G75 0EG (“the Respondents”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order for payment of the sum of £5850 should be  
granted against the Respondents in favour of the Applicant.**

**Background**

1. By application dated 7 February 2020 the Applicant seeks an order for payment in relation to unpaid rent. The application states that the Respondents have failed to pay rent since 27 February 2019. On 13 December 2019, a payment order was granted by the Tribunal for the sum of £6500. The Applicant now seeks an order in relation to arrears of rent incurred since that date. The sum outstanding at the date of the application is £1300. The Applicant seeks an order for this sum together with any further rent outstanding in the event that the Respondents remain in the property and fail to pay rent. A style tenancy agreement, AT5 notices, Notices in terms of ground 2 of Schedule 5 of the 1988 Act (“ground 2 Notices”) and a rent statement were lodged in support of the

application. In a letter to the Tribunal the Applicant advised that the tenancy agreement signed by the Respondents has been lost, but that the style agreement which has been submitted is in the same terms. The Applicant stated that the agreed term of the tenancy was from 27 August 2015 for six months, and then on a monthly basis, at a rental of £650. The AT5 Notices lodged are dated 27 August 2015. They are addressed to the Respondents and signed on behalf of the Applicant. The Ground 2 Notices are also dated 27 August 2015. They state that the short assured tenancy is for the period 27 August 2017 until 27 February 2016. The Respondents have signed declarations on the ground 2 Notices, acknowledging receipt of same, and of the AT5 Notices.

2. A copy of the application and supporting documents were served on the Respondents by Sheriff Officer on 6 March 2020. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 7 April 2020 and that they were required to attend. The CMD was postponed as a result of Government restrictions due to COVID 19. On 16 June 2020, the parties were advised that the CMD would now take place by conference call on 15 July 2020 at 10am. Both were provided with a telephone number and passcode. The Respondents were notified by recorded delivery letter sent to the tenancy subjects.
3. The application called for a CMD at 10.10 am on 15 July 2020. The Applicant was represented by Mr Buchanan, solicitor. The Respondents did not participate. Mr Buchanan advised the Legal Member that the second Respondent is still in occupation of the property. However, she has advised him that the Respondents are now separated, and the first Respondent no longer resides there. The Legal Member noted that, as the notification letter was sent to the property, the first Respondent may not have received it. Mr Buchanan confirmed that an order for payment is sought against both Respondents and advised that he has not been able to verify whether the first Respondent has indeed vacated the property. In any event, he is still a tenant. The CMD was adjourned to allow investigation to be made regarding the First Respondents address. The Applicant subsequently provided a trace report from a Sheriff Officer confirming the First Respondent’s new address. All parties were notified that a further CMD would take place by telephone conference call on 1 September 2020 at 10am and that they were required to participate.
4. On 10 and 27 August 2020 the First Respondent telephoned the Tribunal. He advised that he had not lived at the property for 2 years and was not liable for the arrears of rent. He further advised that he did not wish to participate in the CMD. On 27 August he sent an email to the Tribunal stating that he “used to be a tenant but have not lived in that property for over 2 years. I initially removed my name from first avenue over the phone. This also included my father who was guarantor, who was also removed. I can assure you that as long as I lived there the rent was paid every month....I take no responsibility for Ms Drummonds actions in regards to the matter and would like to be struck from the case.”

5. On 20 August 2020, the Applicant lodged an affidavit from Gareth Steven, a former employee of First Avenue Properties (Scotland) Ltd. In the affidavit he refers to the AT5 Notices lodged with the application and confirmed that he issued those to the Respondents and signed them. He also states "I am clear that Stephen Hyslop and Michelle Drummond entered into a short assured tenancy in line with our style namely for a six month period and then on a month to month basis. I am aware that the previous tenant, Marie Keenan, signed a lease in exactly the same style. That lease came to an end on 2 August 2015. The rental in both the previous lease and the lease to Stephen Hyslop and Michelle Drummond was £650 per month. Stephen Hyslop and Michelle Drummond took on the tenancy at the end of Marie Keenan's lease. I know that Stephen Hyslop and Michelle Drummond made payment of £650 per month to First Avenue in line with the lease. I don't know when they stopped paying." On 27 August 2020, the Applicant lodged a rent statement for the period 27 August 2017 until 27 February 2020. This shows payments of rent of £650 per month between 27 August 2017 and 27 February 2019, when the payments stopped. A letter from the Property Store dated 27 August 2020 also confirmed that no payments have been received since that date.
6. The application called for a CMD by telephone conference call on 1 September 2020. The Applicant was represented by Mr Buchanan, solicitor. The Respondents did not participate and were not represented.

### **Case Management Discussion**

7. Mr Buchanan advised that Ms Drummond remains in occupation of the property and has not paid rent since February 2019. As previously advised, at the CMD on 15 July 2020, Ms Drummond had notified him that she and Mr Hyslop were separated, and that he no longer resided at the property. However, the Applicant does not know when this occurred. They have no information to support the claim by Mr Hislop that he moved out over 2 years ago. There is a record of a telephone call from him when he stated that he had moved out, but it is undated. In any event, no written notice appears to have been received from him and a new tenancy agreement in the sole name of Ms Drummond has never been signed. As far as the Applicant is concerned, the tenancy which started on 27 August 2015 is continuing, and it is a joint tenancy. The Respondents are therefore both liable for the rent and an order for payment is sought in relation to both.
8. Mr Buchanan advised that (excluding the sums already covered by the payment order granted on 13 December 2019) the sum currently due is £5850. He referred the Legal Member to the terms of the application form and to the letter from the letting agent, submitted to the Tribunal, which confirmed that no payments of rent have been received since 27 February 2019. He advised that the Applicant seeks an order for the current figure of £5850.

## **Findings in Fact**

9. The Applicant is the owner and landlord of the property.
10. The Respondents are the tenants of the property in terms of a short assured tenancy agreement which started on 27 August 2015.
11. The Respondents are due to pay rent at the rate of £650 per month.
12. The sum of £5850 is due to the Applicant in unpaid rent

## **Reasons for Decision**

13. The application was submitted with a style short assured tenancy agreement, AT5 Notices and Ground 2 Notices. The AT5 Notices are dated 27 August 2015. The ground 2 Notices state that the term of the tenancy is 27 August 2015 until 27 February 2016. The style tenancy agreement states that rent is due at the rate of £650 per month and confirms that the tenants are jointly and severally liable for the rent. The affidavit lodged by the Applicant, from a former employee of the letting agent who once acted for the Applicant, states that the style tenancy agreement lodged with the application is similar to the document signed by the Respondents. He confirms that the agreed rent was £650 per month and that the Respondents initially paid rent at this rate. The rent statement lodged by the Applicant shows rent payments at the rate of £650 per month until 27 February 2019, when these payments stopped.
14. The Legal Member is satisfied that the Respondents entered into a tenancy agreement which stated on 27 August 2015, at a contractual rent of £650 per month. It appears that the First respondent moved out of the property at some point but was not formally released from the tenancy agreement. It therefore appears that the joint tenancy is continuing, and the Respondents remain jointly and severally liable for the rent.
15. The Legal Member is also satisfied that no rent has been paid since 27 February 2019. An order for payment was granted by the Tribunal on 13 December 2019. Since that date, a further £5850 of arrears have been incurred.
16. The Legal Member therefore concludes that an order for payment should be granted against the Respondents.

## **Decision**

17. The Legal Member determines that an order for payment of the sum of £5850 should be granted against the Respondents.

## **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.**

**Josephine Bonnar, Legal Member**

**1 September 2020**

Josephine Bonnar