

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**

Chamber Ref: FTS/HPC/CV/18/0697

Re: Property at 58 Hailesland Grove, Edinburgh, EH14 2QH ("the Property")

Parties:

Mr David Bishop, Unit 211, 196 Rose Street, Edinburgh, EH2 4AT ("the Applicant")

Miss Jay Davie, 5/8 Hailesland Grove, Edinburgh EH14 2QH, (the First Respondent") Ms Lee Anne Rowley, ("the Second Respondent") 28B Clovenstone Park, Edinburgh, EH14 3BJ ("the Respondents")

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Second Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Applicant was entitled to an order for payment against the Respondents jointly and severally in the sum of £642.85

Background

- 1. By Application dated 20th March 2018 the Applicant's representatives Lothians Homes 4 Let, Unit C2 48C North Bridge Street, Bathgate West Lothian applied to the Tribunal for an order for payment of the sum of £642.85 of rent arrears in terms of section 16 of the Housing (Scotland) Act 2014 ("the 2014 Act").**
- 2. On 28th March 2018 the Tribunal accepted the Application and a Case Management Discussion was assigned to take place in George House, 126 George Street, Edinburgh on 22nd May 2018.**
- 3. Intimation of the Case Management Discussion was given to the parties by post and to the First Respondent by Sheriff Officer.**

Case Management Discussion

- 4. The Case Management Discussion was Attended by the Applicant along with Miss Isla Deary from the Applicant's representatives Lothian Homes 4 Let and by the First Respondent Miss Jay Davie. The Second Respondent Lee-Anne Rowley was unable to attend but the First Respondent said she was able to put forward her mother's position.**
- 5. It was accepted that the First Respondent had been a tenant of the Applicant under a Short Assured Tenancy that had now ended. For the Applicant it was said that although the rent had been increased from 10th August 2016 to £808.00 per month he had agreed to accept £700.00 per month as that was as much as the First Respondents could afford following the reduction in her Housing Benefit.**
- 6. The Applicant produced a schedule of payments made by the local authority and the First Respondent that showed between 01/04/2017 and 01/02/2018 the Applicant had received rent of £7057.15 against an amount due of £7700.00 leaving arrears outstanding at that date of £642.85.**
- 7. The First Respondent accepted that the schedule produced by the Applicant was accurate and the arrears of rent were due. The First Respondent confirmed that she had made no further payments herself since 01/02/2018. She said that she had vacated the property shortly after being given intimation of the Application to the Tribunal and was now living in Homeless accommodation in a Bed and Breakfast establishment at Abbots House in Leith. She hoped to be rehomed in about six weeks time.**
- 8. The Applicants representative advised the tribunal that she had emailed the Tribunal administration with up to date details of the amount of rent arrears and other outstanding amounts due on 14th May and had received an acknowledgement. The amount now said to be due had increased substantially and was said to be in excess of £1300.00. The Tribunal could find no trace of this being received or intimated to the other parties and would in any event have been out with the time allowed for written representations. The Tribunal declined to accept these representations being received.**
- 9. The First Respondent said that her mother, the Second Respondent had not realised that she would be called upon to make payment for any default on the part of the First Respondent if the First Respondent's Housing Benefit was reduced. The First Respondent accepted however that the wording of the Guarantor Agreement was quite clear in its terms and that her mother accepted that she had signed the document. She also accepted that her mother had been given the opportunity to attend the Case Management Discussion and had chosen not to attend in order to look after the First Respondent's children.**

Findings in Fact

- 10. As at 01/02/2018 the First Respondent had arrears of rent amounting to £642.85. The Applicant is entitled to an order for payment of this amount.**
- 11. The Second Respondent is jointly and severally liable for payment of the above amount by virtue of the terms of a Guarantor Agreement dated 20/05/2013 and 27/5/2013.**

Reasons for Decision

- 12. The Applicant and his representative produced detailed documentation to satisfy the tribunal that the First Respondent had accrued arrears of rent amounting to £642.85 as at 01/02/2018. It was accepted by the First Respondent that she was due this amount.**
- 13. Although the Second Respondent was not in attendance it was clear from the Guarantor Agreement that the Second Respondent had bound herself to pay the Applicant any amount due by the First Respondent in the event of her defaulting on any term of the Tenancy Agreement. It was accepted by the First Respondent on behalf of her mother that her mother had signed the agreement and that its terms were quite clear and that her mother was therefore bound by it.**
- 14. Although the Applicant's representative sought to increase the sum sought by arguing that further written representations had been sent to the Tribunal on 14/05/2018 there was no trace of these being received and they had certainly not been intimated to the Tribunal Chairman or as far as he could ascertain the other parties. In any event they would not have been received within the 7 Working Days prior to the Case Management Hearing as provided for in Rule 13 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and in the circumstances the Tribunal was of the view that it would not be in the interests of Justice or expedient to allow an amendment at this stage. It would be open to the Applicant to make a further application in the future if further sums remained outstanding.**

Decision

- 15. The Tribunal determined that the Applicant should be granted an order against the Respondents Jointly and Severally for payment of the sum of £642.85**

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.

G Harding

Legal Member/Chair

Date

22 May 2018