



**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/20/0585**

**Re: Property at Grieves Cottage, Haughs of Kinnaird, Brechin, Angus, DD9 6UA (“the Property”)**

**Parties:**

**Southesk Farms, Estate Office, Haughs of Kinnaird, Brechin, Angus, DD9 6UA (“the Applicant”)**

**Mr Thomas Bryson, Ms Sharon Ringsell, Unknown, Unknown; Unknown, Unknown (“the Respondents”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that payment order in the sum of £4380 be made against the Respondents and in favour of the Applicant.**

**Background**

This is an application under Rule 70 of the Tribunal rules for a payment order in relation to rent payable under a tenancy agreement at the property, which is said to be in arrears. The application was lodged with the Tribunal on 18 February 2020. The application was accepted by the Tribunal on 3 March 2020. A case management discussion was set down for 28 August 2020. A previous case management discussion required to be postponed as the papers and application could not be served on the Respondents at the property.

**Case Management Discussion**

The case management discussion on 28<sup>th</sup> August 2020 was attended by Mr Dymock, Representative for the Applicant Southesk Farms. There was no appearance by the

Respondents or any person on their behalf. Mr Dymock requested that the Tribunal proceed in the absence of the Respondents. The Tribunal considered whether the Respondents had been given notice of the case management discussion in terms of the Tribunal rules. The application had been advertised on the Tribunal website in terms of rule 6A of the Tribunal Rules for a period of over four weeks until 27 August 2020. As this satisfied the requirements of intimation under Rule 24 of the rules of procedure, the Tribunal was prepared to proceed in the absence of the Respondents as set out in Rule 29 of the Tribunal Rules.

The Tribunal had sight of the application, a covering letter, a tenancy agreement, the tenant information pack, Form AT5 served on the tenants in September 2016, a form giving prior notification of grounds in relation to recovery of possession by a heritable creditor and customer ledgers in relation to payment of rent.

Mr Dymock explained that the Applicant had entered into a short assured tenancy agreement at the property with the Respondents with effect from 1 October 2016. The tenancy agreement had been for a period of a year but had continued after that date on a monthly basis as set out in clause 4 of the agreement. The rent was payable in advance at the rate of £620 per calendar month. Mr Dymock referred to the customer ledgers which demonstrated that arrears of rent had built up over a period of time and the last rent payment had been made in September 2019. A number of attempts had been made to contact the Respondents regarding the arrears of rent but no communication had been received. Mr Dymock was aware that the second Respondent Sharon Ringsell had been seriously unwell for a period of time during the tenancy and at least one of the payments to account in the ledger in respect of rent for some £200 had been paid to her by a charity assisting her with her illness. She had then passed this on in part payment of rent arrears.

Mr Dymock indicated that in February 2020 he had observed that there appeared to be no one at the property. He explained that his office on the estate was about 50 metres from the property and he normally saw vehicles outside and signs of occupation. When a check was made it was discovered sometime in February 2020 that the Respondents had apparently left the property, leaving the keys in the door. They had left without giving notice or any forwarding address. The arrears of rent being sought by Mr Dymock covered the month of February 2020 as rent was due to be paid monthly in advance.

Mr Dymock advised the Tribunal that he understood that the first Respondent Mr Bryson was in employment during the tenancy but he was unsure if Ms Ringsall had worked during the tenancy. He was able to advise the Tribunal that he had never been aware of any rent payments being made by the Respondents from a benefit payment nor was he aware that they had ever suffered a delay or failure in the payment of any benefit.

Mr Dymock requested a payment order for the sum of the rent arrears and indicated that was prepared to take a fair approach to repayment if he was able to trace the Respondents in the future.

The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

The Tribunal made a payment order in the sum of the rent arrears.

### **Findings in Fact**

1. The Applicant entered into a short assured tenancy with the Respondents at the property on 1 October 2016.
2. The monthly rent in terms of the tenancy agreement was £620 and this was to be paid in advance.
3. The Applicant's representative is the Factor for the Applicant and his office is very close to the property. He became aware in February 2020 that the Respondents did not appear to be occupying the property. It was discovered that they had left the property sometime during February 2020 without giving notice.
4. Rent arrears had gradually built up at the property during the tenancy between the parties and no rent had been paid by the Respondents after September 2019.
5. The rent arrears up to the end of February 2020 are £4380.
6. Rent arrears did not accrue at the property as a result of any delay or failure in the payment of any relevant benefit to the Respondents.
7. Rent arrears in the sum of £4380 are lawfully due by the Respondents to the Applicant.

### **Reasons for Decision**

The Tribunal was satisfied on the information before it that rent arrears had accrued at the property in terms of the tenancy agreement between the Applicant and the Respondents. No rent had been paid since September 2019 and the outstanding arrears amounted to £4380. It is therefore reasonable in all of the circumstances that the Tribunal makes a payment order for that sum.

### **Decision**

The Tribunal makes a payment order in the sum of £4380 against the Respondents and in favour of 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.

Valerie Bremner

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Legal Member/Chair

28.08.20  
Date