



**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/20/0746**

**Re: Property at 25 Vert Court, Haldane Avenue, Haddington, EH41 3PX (“the  
Property”)**

**Parties:**

**The Jamie Carter Trust, 3 Barntongate Drive, Edinburgh, EH4 8BE (“the  
Applicant”)**

**Miss Anna Stawarz, Unknown, Unknown (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order for payment of FOUR THOUSAND ONE  
HUNDRED AND TEN POUNDS AND NINETY SEVEN PENCE (£4110.97)  
STERLING with a Time to Pay Direction under the Debtors (Scotland) Act 1987  
be made. The order for payment with the Time to Pay Direction will be issued  
to the Applicant after the expiry of 30 days mentioned below in the right to  
appeal section unless an application for recall, review or permission to appeal  
is lodged with the Tribunal by the Respondent.**

**Background**

1. By application dated 22 February 2020 the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears under a Private Residential Tenancy at the Property.
2. On 9 July 2020 the Tribunal gave notification of acceptance of the application to the Applicant and the Respondent under Rule 9 of the First-tier Tribunal for

Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

3. On 9 July 2020, the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 28 July 2020. The Tribunal advised parties on 9 July 2020 that a Case Management Discussion under Rule 17 of the Regulations would proceed on 11 August 2020.
4. The Respondent did not make any written representations by 28 July 2020. However she lodged copies of emails with the Tribunal dated 10 August 2020 with the Applicant in terms of which it appeared that parties had reached a repayment agreement to clear the arrears. Copies of these emails had been sent to the Applicant’s solicitor on 10 August 2020.

### **Case Management Discussion**

5. The Tribunal proceeded with the Case Management Discussion (“CMD”) on 11 August 2020. The Applicant was represented by Mr O’Donnell from T C Young, solicitors. The Respondent appeared personally. At the request of the Respondent, the Tribunal had arranged for a Polish interpreter, to interpret during the CMD. Ms Waligora the interpreter was also in attendance.
6. The Tribunal had before it a Private Residential Tenancy Agreement between the Applicant and the Respondent signed and dated 22 February 2018, an up to date rent statement to 22 July 2020 and the emails between the Respondent and the Applicant dated 10 August 2020.
7. The Tribunal pointed out to Mr O’Donnell that the Application referred to Rule 70 of the Regulations (application for civil proceedings in relation to an assured tenancy) but that as the tenancy was a Private Residential Tenancy the Application should proceed under Rule 111. Mr O’Donnell accepted that. The Respondent was asked whether she had any objection to the application proceeding under Rule 111. After the Tribunal explained the difference in the Rules, the Respondent advised she had no objection to the Application proceeding under Rule 111. Accordingly, the CMD proceeded on that basis.
8. Mr O’Donnell moved the Tribunal to grant an order for payment in the increased sum of £4110.97 from £1560 as per the up to date rent statement in terms of Rule 13(1) (b) of the Regulations. The Respondent accepted she had

seen the up to date rent statement and the arrears were due. She had no objection to the sum being increased. Accordingly the Tribunal allowed the sum sought to be increased to £4110.97.

9. The Tribunal then considered the email correspondence between the parties on 10 August 2020. In terms of this correspondence, agreement had been reached that the Respondent pay the Applicant £300 by Friday 14 August 2020 with another £200 being due on 31 August 2020 and that thereafter the Respondent would pay £300 per month on 17<sup>th</sup> of each month until the arrears were cleared. Mr O'Donnell confirmed that arrangement to clear the arrears was acceptable to his client.

### **Reasons for Decision**

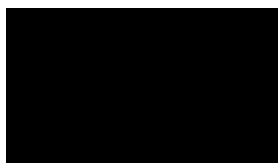
10. The Applicant provided evidence of non-payment of rent. The arrears were accepted by the Respondent. The Tribunal noted the terms of the emails of 10 August 2020 and that parties had reached a repayment arrangement to clear the arrears. In light of the Respondent's acceptance of liability of the arrears of £4110.97, the Tribunal was prepared to allow the application to be amended to reflect the arrears had increased to £4110.97.

### **Decision**

11. The Tribunal granted a payment order with a Time to Pay Direction to reflect the repayment arrangement made between the parties.

### **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.**



**Shirley Evans**  
**Legal Member**

**11<sup>th</sup> August 2020**  
**Date**