

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

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**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/20/2473**

**Re: Property at 14 Balbardie Crescent, Bathgate, EH48 4AJ (“the Property”)**

**Parties:**

**CK Estates Ltd, 51 Marjoribanks Street, Bathgate, EH48 1AL (“the Applicant”)**

**Mrs Mary Brown, 27 Kepscaith Crescent, Whitburn, EH47 8JF (“The Respondent”)**

**Tribunal Members:**

**Lesley-Anne Mulholland (Legal Member)**

**Decision**

In the absence of the parties, The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant a payment order in the sum of £4910.62 representing rent arrears in the sum of £1221.62 alongwith the cost of repair and cleaning to the property required as a result of the tenant leaving the property in an unreasonable condition.

**Background**

1. This application was made on 26 November 2020 for a payment order in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended and section 16 of the Housing (Scotland) Act 2014.
2. I have considered to the application dated 26 November 2020, the tenancy agreement, schedule of rent arrears and photographs of the condition of the property after the tenant had left alongwith several invoices detailing the cost of repair and cleaning of the property. I have also considered the certificate of service of the application and enclosures served by Sheriff Officers. I am satisfied that The Respondent has been properly notified of this application.
3. The Applicant made an application for a payment order for rent arrears in the sum of £1221.62 and to recover the cost of repairs and cleaning in the sum of £3869 said to have been caused by the tenant. The Respondent (who is the tenant’s guarantor) has been provided with all relevant documents, including the rent arrears schedule, invoices for cleaning and repair, a copy of the application, tenancy agreement and photographs of the property after the tenant had left. The Applicant served the application on The Respondent by Sheriff Officers on 15 December 2020 as the execution of service shows.

## **Findings in Fact**

1. The Applicant CK Estates Ltd is the rightful owner of the property at 14 Balbardie Crescent, Bathgate, EH48 4AJ.
2. On 9 December 2016 The Tenant, Mrs Laura Ross, entered into short-assured lease agreement with the owner. Mrs Mary Brown (The Respondent ) acted as guarantor.
3. The sum due in rent is £700 per calendar month.
4. Rent arrears have accrued in the sum of £1221.62 as per schedule attached to the application.
5. The tenant vacated the property and breached the terms of the lease agreement by failing to leave the property in a reasonable condition.
6. The Applicant has arranged for the cleaning and repair of the property to the condition it was in at the time the tenant took occupancy.
7. The applicant has incurred the cost of the repairs and cleaning to the property in the sum of £3689.00 as evidenced by the invoices and as accepted by The Respondent by making an application for a direction for time to pay.

## **Reasons**

1. On 24 December 2020, The Respondent made an application for a time to pay direction. This was received on 5 January 2021 and forwarded to The Applicant for response. On 6 January 2021 The Applicant agreed to allow The Respondent time to pay. The terms agreed between the parties allow The Respondent to repay the debt by monthly instalments of £100.
2. A Case Management Discussion was due to be held on 25 January 2021 but as The Respondent has admitted liability by making an application for a time to pay direction, I have decided to consider the application without a hearing under Regulation 18 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
3. In terms of the Debtors (Scotland) Act 1987 (amended by the First- tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019) I have decided to make a Time to Pay Direction as I am satisfied that it is reasonable in the circumstances to do so having regard in particular to the nature and reasons for the debt in relation to which the order is sought, any action taken by the creditor to assist the debtor in paying the debt, the debtor's financial position and the reasonableness of any proposal by the debtor to pay that debt.
4. Whilst I acknowledge that repayment of £100 per month means that the debt will not be repaid for around 4 years, I have given weight to the agreement reached between The Applicant and The Respondent and because The Respondent is in a financial position only to offer this amount as she is on a low income. I have borne in mind also that The Respondent acted as guarantor for the tenant and was not aware of the debt until the application was served on her. Accordingly as I am satisfied that The Respondent has admitted liability in the sum of £4,910.62, I have decided to make a payment order for that sum and a direction that The Respondent shall repay this amount by instalments to be made no later than the 28<sup>th</sup> day of each month.

## **Decision**

1. The Respondent has to pay The Applicant the sum of £4910.62
2. A time to pay direction has been granted allowing The Respondent to pay in monthly instalments of £100 due on the 28<sup>th</sup> of each month.

## **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.**

Lesley-Ann Mulholland

**Legal Member/Chair**

\_\_\_\_\_ 14 January 2021