



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

**Chamber Ref: FTS/HPC/CV/20/2490**

**Re: Property at 224 Oldwood Place, Livingston, EH54 6XB (“the Property”)**

**Parties:**

**Mrs Annette Horn, Stevenson Close, Heighington, Lincoln, LN4 1GP (“the Applicant”)**

**Mr Aaron Kane, Mr Edward Kane, 45 Larchbank, Ladywell, Livingston, EH54 6ED; 10 Ballantyne Place, Livingston, EH65 6TG (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted in favour of the Applicant by the Respondent’s to the amount of £5003.45 (FIVE THOUSAND AND THREE POUNDS AND FORTY FIVE PENCE) .**

**Background**

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Application was received on 30<sup>th</sup> November 2020. The Applicant is seeking an order for payment of the sum of £5003.45 in terms of s16 of the Housing (Scotland) Act 2014.
2. On 3<sup>rd</sup> March 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) on 6<sup>th</sup> April 2021 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 24<sup>th</sup> March 2021.

### Case Management Discussion

3. A CMD was held on 6<sup>th</sup> April 2021 at 2pm by teleconferencing. The Applicant was represented by Mr Gregory Bird, director, BG Properties. The Applicant did not attend. The First Named Respondent, Mr Aaron Kane, was present. The Second Named Respondent was not present.
4. The Respondents did not make representations in advance of the hearing. Mr Kane informed the Tribunal that he had been working until the Coronavirus pandemic caused the lockdown in March 2020. Mr Kane struggled financially after that. He claimed Universal Credit. He was given the Housing Element but had not been able to sustain his living costs on his reduced income so he did not pay that over to the Applicant. He does not dispute the outstanding sum due save for £150 which he paid on the day of the Tribunal. Mr Bird accepted that Mr Kane had paid £150 that morning and was happy for the original sum sought to be reduced by that amount.
5. Mr Kane wished a payment order to be considered. Mr Bird opposed this as per his instructions from his client. The Tribunal did not consider that it was appropriate he had not paid any monies since March/April 2020 until the day of the hearing. In addition he had not paid over any of the Universal Credit Housing Element. The Tribunal was satisfied that it was appropriate to grant an order as requested.
6. Mr Kane left the Property in November 2020. He was concerned about the effect of the Order upon his father. The Tribunal explained that as guarantor his father was liable for the arrears jointly and severally. Mr Bird and Mr Kane elected to discuss a payment plan after the hearing.

### Findings in Fact

7. The parties entered into a Short Assured Tenancy on 28<sup>th</sup> May 2015 for a 6months period until 27<sup>th</sup> November 2015 and on a month to month basis thereafter. The lease was signed on 28<sup>th</sup> May 2015. The lease was signed by both the Respondents. The rent payments of £550 were due each month.
8. The First Named Respondent is the Tenant. The Second Named Respondent is the Guarantor for the rent.
9. The Housing and Property Chamber received an Application on 30<sup>th</sup> November 2020.
10. The Respondents have persistently not made rent payments. There have been more than 3 missed payments.
11. There are no outstanding Housing Benefit issues.
12. The arrears due to the Applicant amounts to £5003.45.

### Reasons for Decision

13. The Respondents have failed to make payment of the rent lawfully due in terms of the lease between the parties. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondents had persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £5003.45.

### Decision

14. The Applicant is entitled to for an order of payment of £5003.45 by 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.**

**G. M**

**6<sup>th</sup> April 2021**

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**Legal Member/Chair**

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**Date**