



**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/21/0740**

**Re: Property at 75 Greenlaw Avenue, Coltness, Wishaw, ML2 8QN (“the Property”)**

**Parties:**

**Miss Hazel Laughlan, 1 Lady Helen Cottages, Cardenden, Fife, KY5 0AL executor-dative of the late Stewart Laughlin by virtue of decree dated 4 April 2019 by Hamilton Sheriff Court (“the Applicant”)**

**Ms Cheryl Bradley, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order in the sum of £11,880 should be granted.**

- Background

By application dated 22 March 2021 (the Application), the Applicant sought a Payment Order against the Respondent in relation to rent arrears for the Property. With the Application, the Applicant lodged various supporting documents including:

- 1) Copy Lease;
- 2) Copy Rent Statement;
- 3) Copy decree dative from Hamilton Sheriff Court dated 4 April 2019; and
- 4) Copy confirmation.

In advance of the Case Management Discussion, the Tribunal issued a communication to the Applicant indicating that clarification would be required as to whether the Applicant was seeking the Payment Order in a representative capacity or in her own right.

- The Case Management Discussion

A Case Management Hearing was fixed for 1 June 2021 to be heard by way of conference call. The Applicant did not appear but was represented by a Mr Robertson of Morgans Solicitors. The Respondent did not appear, nor was she represented. The Tribunal was satisfied that the requirements of service had been complied with as a certificate of service by way of advertisement was provided by Tribunal administration.

Mr Robertson clarified that the Applicant was seeking the Payment Order in her capacity as executor-dative of the late Stewart Laughlin. He died intestate on 19 March 2019 and the Applicant was appointed by the Sheriff in Hamilton by decree dative dated 4 April 2019. A copy of the decree dated 4 April 2019 had been produced with the Application. He was content for the designation of the Applicant to be amended to reflect that representative capacity.

In terms of the Respondent, Mr Robertson confirmed that no contact had been had with her for some time and that she had vacated the Property shortly after they Application as lodged. There had been no recent contact and they did not know her current whereabouts. He confirmed the arrears sought were per the rent schedule lodged and that there was no deposit taken in relation to the Respondent's tenancy for the Property.

- Findings in Fact and Law

- 1) The Respondent entered into a lease for the Property with a Stewart Laughlin (deceased).
- 2) The lease commenced on or around 12 July 2017 and the rent due under the tenancy was £495 per calendar month.
- 3) The Respondent vacated the Property leaving rent arrears of £11,880.
- 4) The Applicant was appointed Executor-dative by the Sheriff in Hamilton by virtue of decree dative dated 4 April 2019.
- 5) The Applicant is entitled, as executor-dative, to receive the arrears of rent on behalf of the estate of Stewart Laughlin (deceased) and is entitled to a Payment Order accordingly.

- Reasons for Decision

The Respondent vacated the Property leaving rent arrears totalling £11,880. The Applicant, as executor-dative of Stewart Laughlin (deceased), is entitled to receive payment of those arrears on behalf of his estate.

- Decision

The Tribunal granted a Payment Order in favour of the Applicant against the Respondent in the sum of £11,880.

## 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.

Rory Cowan

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Legal Member/Chair

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Date 1 June 2021