



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/21/2068**

**Re: Property at 13c Ruskin Place, Mayfield, EH22 5QJ (“the Property”)**

**Parties:**

**Denlo Property Ltd, 4 The Hawthorns, Gullane, EH31 2DZ (“the Applicant”)**

**Mr Dylan Barns, Mr Christopher Kane, 13c Ruskin Place, Mayfield, EH22 5QJ (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it should grant an order in favour of the Applicant for the Sum of TWO THOUSAND SEVEN HUNDRED AND THIRTY FIVE POUNDS AND TWENTY SEVEN PENCE (£2,735.27) STERLING.**

**Background**

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment in relation to unpaid rent.
2. The application contained:-

- a. a copy of the tenancy agreement and
  - b. rent statement
- 3. Today's case management discussion was held by telephone conference call. At the case management discussion, the Applicant's agent, Ms Booth from Messrs Milards appeared. There was no appearance by the Respondents. The Respondents had been notified of today's discussion on the 23 November 2021. I was prepared to proceed with today's discussion in their absence.
- 4. This was a continued case management discussion from 16 November 2021. The Applicant had sought to amend the sum she was seeking on that date and the case was continued to allow notice of the amended sum to be served on the Respondents. Reference is made to the terms of that discussion note.
- 5. On 3 December 2021 the applicant's agent had emailed the tribunal an updated rent statement and in their email they asked to further amend the sum sought to £2761. They advised that they notified the respondents of this further amendment and they submitted evidence of postal delivery to the respondents.

#### Discussion

- 6. The Applicant's agent advised that the rent arrears were still outstanding. They had decreased slightly however and were currently £2,735.27, as there had been one payment made from Mr Barns of £25.73.
- 7. She asked me to grant the amendment of the sum sued. I confirmed that I was prepared to grant the amendment.
- 8. She referred to the tenancy agreement between the parties and the rent statement that she had lodged. She advised that the respondents were aware of the arrears.

9. She had previously advised the tribunal that some payments were being made by Mr Barns from universal credit of £412 per month; and that he also made a further top-up payment of around £34.40 each month. She advised that Mr Kane was however paying nothing. She advised that there had been one month when there had been no universal credit payment. She confirmed that this remained the position, while there were payments being made to the rent they were insufficient to meet the full sum and the arrears continued to increase, she advised that it was disappointing as she had hoped to work with the tenants but she had been unsuccessful in getting them to meet their full rental payments.

### Findings in Fact

10. The Tribunal found the following facts to be established:
11. A tenancy agreement was entered into between the Applicant and the Respondents for the property, 13 C Ruskin Place, Mayfield, Midlothian. It commenced on 12 November 2020.
12. The tenancy agreement provided that monthly rent was £685.00.
13. The rent statement showed amounts rent due, rent paid and balance outstanding.
14. Rent arrears up to 21 December 2021 totalled £2,735.27.

### Reasons for Decision

15. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is an private residential tenancy, I am content that I have jurisdiction to deal with this case.

16. The tenancy agreement created obligations between the parties including, the obligation to pay rent. The Respondents had failed to pay their rent.

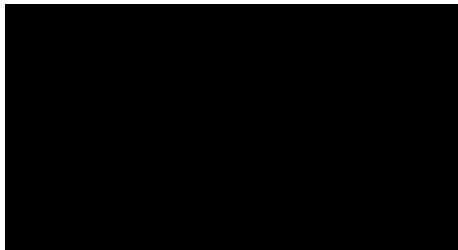
17. Based on the evidence before me, which includes:- the papers submitted with the application; the additional information received confirming the current level of rent arrears; and the verbal submission by the applicant's agent. I consider that I should make a payment order of £2761.00.

### Decision

18. I grant an order in favour of the Applicant for the sum of TWO THOUSAND SEVEN HUNDRED AND THIRTY FIVE POUNDS AND TWENTY SEVEN PENCE (£2,735.27) STERLING

### **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.**



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**Legal Member/Chair**

**29/12/2021**

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**Date**