



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/22/2015**

**Re: Property at 35 Springhill, 3/3, Dundee, DD4 6HR (“the Property”)**

**Parties:**

**Mr Gerard Stanton, 65 Kemnay Gardens, Dundee, DD4 7TR (“the Applicant”)**

**Mr Nicholas Masson, Mr William Barry Masson, 35 Springhill, Flat 3/3, Dundee, DD4 6HR; 63 William Street, Dundee, DD1 2NH (“the Respondents”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Jane Heppenstall (Ordinary Member)**

**Decision (in absence of the Second Respondent, Mr William Masson)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made a Payment Order in favour of the Applicant against the Respondents in the sum of £7,370.00.**

**Background**

The Applicant seeks a Payment Order in respect of rent arrears said to have been accrued by Nicholas Masson under a tenancy between the parties and in respect of which Mr William Masson, as guarantor, is said to be jointly and severally liable.

The Application had previously called for a Case Management Discussion on 28 October 2022. Nicholas Masson was in attendance. Mr William Masson was neither present nor represented. It was brought to the Tribunal’s attention at that Case Management Discussion that Mr Nicholas Masson was unwell and could not attend.

The Tribunal recognised this as an issue and addressed the matter by making a Direction that Mr William Masson should lodge medical vouching detailing his difficulties should he be unable to participate further in these proceedings. Nothing further was received from Mr William Masson.

Prior to the Case Management Discussion, the Applicant had sought to amend the sum claimed to a revised figure of £6,810.00. This had been intimated to William Masson by Recorded Delivery post albeit it was only received by him on 27 January 2023.

### **The Case Management Discussion**

The Application called again for a Case Management Discussion (CMD) by conference call at 10 am on 3 February 2023. The Application called alongside a related Application in respect of an Eviction Order between the parties.

The Applicant was represented by Ms Cooper of Thorntons LLP. The Respondent was personally present. There was no appearance by or on behalf of William Masson. Nicholas Masson confirmed that William Masson, who is his father, knows about the Tribunal and that there is no reason why the Tribunal should not proceed in his absence. Neither party had any preliminary matters. Nicholas Masson's position was that the arrears of rent actually properly now stood at £7,370.00. Nicholas Masson stated that there was no reason why a Payment Order in this sum should not be made.

Having heard from parties and considered the Application, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a Private Residential Tenancy which commenced on 1 November 2019;*
- II. *William Masson undertook in that tenancy agreement to act as guarantor for Nicholas Masson and is accordingly jointly and severally liable for the contractual monthly rental payments;*
- III. *The contractual monthly rent was £570.00 per month;*
- IV. *The sums lawfully due as rent arrears by the Respondents to the Applicant are now in the sum of £7,370.00.*

### **Reasons for Decision**

Having made the above findings in fact, the Tribunal decided to grant the Application and made a Payment Order in the sum of £7,370.00.

### **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

3 February 2023  
Date