

**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/21/1257**

**Re: Property at 0/2 2 Memel Street, Springburn, G21 1LL (“the Property”)**

**Parties:**

**Ms Gillean McNeill, 6 Lochburn Gardens, Glasgow, G20 0SL (“the Applicant”)**

**Mr Bjarne Hoglund, Ms Laura Jamieson, 31 Shuna Place, Glasgow, G20 9ED;  
31 Shuna Place, Glasgow, G20 9ED (“the Respondents”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of five thousand eight hundred and ninety four pounds and ninety one pence only (£5894.91) be made with interest at the rate of 6 % per annum from the date of the decision until payment is made, in favour of the Applicant and against the Respondent Bjarne Hoglund only, the application having been withdrawn against the Respondent Laura Jamieson after discussion.**

**Background**

1.This is an application for a payment order which was first lodged with the Tribunal on 25 May 2021 which was brought in terms of Rule 70 of the Tribunal rules of procedure. The application was accepted by the Tribunal on 6 September 2021. A case management discussion was fixed for 22<sup>nd</sup> of October 2021 but this was postponed at the request of the Respondent Bjarne Hoglund and a new date was fixed for 10 December 2021 at 10am.

2.The Applicant was initially seeking a payment order in relation to rent arrears accrued at the property amounting to £8050 and damages at the property amounting to some £3019.91.

## Case Management Discussion

3. At the case management discussion on 10 December 2021 the Applicant was represented by Miss Bruce of Complete Clarity solicitors. Neither of the Respondents attended the case management discussion on 10<sup>th</sup> December but the date and time of the teleconference had been intimated to both Respondents. Miss Bruce for the Applicant moved that the Tribunal proceed in their absence and the Tribunal legal member was prepared to proceed in the absence of the Respondents given that they had been given fair notice of the date and no written representations on the matters referred to in the application had been received from Mr Hoglund (other than to request a postponement for reasons relating to the Respondent Ms Jamieson) since 5<sup>th</sup> October 2021.

4. The Tribunal had sight of the application, a paper apart, a tenancy agreement, a schedule of damages, a schedule of unpaid rent, written submissions for the Applicant, invoices and receipts, a trace report, an updated rental arrears statement, bank statements and a series of photographs of what was said to be the interior of the property. Both of the Respondents had made written representations ahead of the postponed case management discussion and the Tribunal had sight of these when considering the matter on 10 December 2021.

5. Miss Bruce addressed the Tribunal firstly in relation to the question of whether the Respondent Ms Jamieson had any liability in relation to the costs of damages and unpaid rent during the tenancy given that she was not a tenant on the tenancy agreement. Ms Jamieson's representations dated 1 October 2020 related to this and she disputed her involvement in the claim.

6. Miss Bruce's submission was that Ms Jamieson was thought to have lived at the property for most of, if not all of the time that Mr Hoglund had been a tenant. She often paid the rent, she was registered there for council tax purposes and by her voluntary and deliberate actions she had effectively entered into an implied contractual relationship with the Applicant, and as a result of that, both Respondents ought to be liable for the outstanding rent and damages jointly and severally. She accepted that the Applicant was aware that Ms Jamieson lived property and did not believe the Applicant had taken any steps to alter the terms of the tenancy agreement to include Ms Jamieson as a tenant. The Tribunal legal member indicated that she would require to be addressed on the law as it related to the matter and after taking instructions Miss Bruce indicated that if the Tribunal did not accept the argument put forward that her instructions were to withdraw the application as it related to Ms Jamieson and to proceed against Mr Hoglund only. The application was therefore withdrawn as regards Ms Jamieson.

7. In the course of a short break which had been taken to allow the Applicant's representative to obtain instructions from her client, it was brought to the Tribunal legal member's attention that the Tribunal had previously made a payment order against Mr Hoglund in relation to rent arrears at the property, which order on the face of it appeared to cover some of the same period for which the Tribunal was being asked to consider a payment order on 10 December 2021. The previous payment order with reference FTS/HPC/CV/20/1293 was brought to Miss Bruce's attention and the case management discussion was adjourned further to allow her to take instructions on the question of rent arrears and whether any payment order had previously been granted to include these.

8. When the Tribunal reconvened Miss Bruce confirmed that she was now seeking rent arrears only from the period of September 2020 to January 2021 and that the previous arrears had been covered by a previous payment order. The total sum by way of rent arrears then being sought was £2875 only, which together with the damages being sought amounted to £5894.91, a lesser sum than had been originally requested in the Application.

9. Miss Bruce explained that the Applicant and the Respondent Bjarne Hoglund had entered into a tenancy agreement for the property with effect from 11 September 2014. Rent had not been paid by Mr Hoglund since 2019. Sheriff officers had served him with documentation requiring him to leave the property by 10 March 2021. Mr Hoglund's position in his representations was that he intended to do that but in February 2021 the landlady had changed the locks on the door and he required to call the police as he had belongings still in the property. In his representations he indicated that the police had told him he was within his rights to "bust the door" to collect his belongings. He explained further that lockdown had put him in a situation where he had no money to pay rent.

10. Miss Bruce was seeking damages on behalf of the Applicant in terms of clause 2.3 of the tenancy agreement. She put forward a different version of events in relation to damage to the door of the property which was part of the Applicant's claim for damages. Her position was that the landlady had been advised by a neighbour that Mr Hoglund had moved out and had put his belongings into a trailer. A man other than Mr Hoglund was seen also trying to enter the property and the landlady was given to understand the property was insecure. She spoke to the police and given the concern regarding the security of the property she entered the property sometime after the Respondent had vacated it, around February 2021 and found that it had been broken into. There were no signs of life. The photographs lodged by her reflected the condition of the property when she entered. The door lock was broken and the fridge contained milk dating back to December 2020. The Applicant's position was that she had not broken the lock and it was noted in Mr Hoglund's representations that he himself appeared to take responsibility for, as he put it "busting the door" although he said this was because the locks had already been changed. The photographs lodged by the Applicant showed a bed which appeared to be stripped of bedcovers other than a sheet or mattress cover, a broken door, a soiled floor, marks on a chest of drawers, dirty dishes, an undecorated Christmas tree, a bedroom which appeared bare other than a pile of clothing, a stained door, a dirty floor, what appeared to be a washing stand and a small ladder propped up against a bed with some items of clothing strewn on the floor, a dirty fridge which contained some food and a bag of unknown items, plastic bags as well as a photograph of the kitchen work surfaces which were covered in glasses and other items.

11. In respect of damages the Applicant was claiming £2200 in respect of repairs to a wall, painting of walls frames and doors, floor replacement, new skirtings, carpet, and laminate and cleaning an external windowsill. She was also seeking the cost of a replacement oven, replacement door, lock and letterplate.

12. Mr Hoglund's written representations indicated that some of the things for which the Applicant was claiming compensation had been noted by him as requiring fixing when he moved into the property. He referred to a water leak through to the kitchen. He did not specify what items he was referring to and did not attend the case management discussion on 10 December 2021.

13. Miss Bruce on behalf of the Applicant indicated that she had sold the property since the end of the tenancy, in April 2021. The Respondent did not intimate when he vacated the property and this was believed to be sometime around February 2021. The repairs and redecoration of the property had taken place before the sale.

14. The Tribunal was satisfied that it had sufficient information upon which a decision could be made and that the proceedings had been fair.

### **Findings in Fact**

15. The applicant entered into a tenancy agreement with the Respondent Bjarne Hoglund with effect from 11 September 2014 with monthly rent payable of £575.

16. Between September 2020 and January 2021 the Respondent Bjarne Hoglund did not pay any rent at the property.

17. Rent arrears over this period accrued and reached the sum of £2875.

18. The Respondent Bjarne Hoglund left the property around February 2021 without advising the Applicant that he had vacated it.

19. Sometime around February 2021 the Applicant received information to the effect that the property had been vacated and found it to be insecure. She entered the property and found no signs of life and formed the view that the Respondent Bjarne Hoglund and his partner had moved out.

20. The property required repair and decoration, a new oven, new flooring, a new front door and lock after the Respondent Bjarne Hoglund left the property.

21. The costs for repair, redecoration and replacement of items amounted to £3091.91.

22. The Respondent Bjarne Hoglund is liable for the unpaid rent arrears accrued during the tenancy and for the costs of damage, repair, redecoration and replacement of items which were incurred at the end of the tenancy in terms of clauses 2.1 and 2.3 of the tenancy agreement.

23. The sum of £5894.91 in respect of rent arrears and costs for damages, redecoration, repairs and replacement of items at the property is lawfully due by the Respondent Bjarne Hoglund to the Applicant.

24. The tenancy agreement between the parties at clause 2.12 requires the Respondent Bjarne Hoglund to pay interest at the rate of 6% above the base lending rate for any rent or other money due by the Respondent under the agreement which is in arrears for a period of more than 2 days.

### **Reasons for Decision**

25. The Tribunal was satisfied on the information presented to it that monthly rent in the sum of £575 per month had not been paid by the Respondent Bjarne Hoglund to the Applicant between September 2020 and January 2021. In addition the Tribunal accepted the material before it regarding the damage said to have been occasioned during the tenancy and the costs required to redecorate, repair, and replace items. While the Respondent had given a different account as to how the door of the property came to be damaged, the photographic evidence presented to the Tribunal appeared to support the Applicant's position that this was how the property had been found by her when she had been advised that it had been left insecure, the Respondent having apparently loaded up his belongings into a trailer and vacated the property before her attendance. The Tribunal considered that it was reasonable to make a payment order in relation to the rent arrears and cost of damages with interest at the rate of 6 per

cent per annum as clause 2.12 of the tenancy agreement allowed for interest to be applied at 6 % above the base lending rate.

### **Decision**

The Tribunal made a payment order in the sum of £5894.91 with interest at the rate of 6% per annum in favour of the Applicant and against the Respondent Bjarne Hoglund only, the application having been withdrawn against the Respondent Laura Jamieson.

### **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.**

Valerie Bremner

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**Legal Member/Chair**

10.12.21  
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**Date**