



**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/20/1926**

**Re: Property at 15 Bloomfield Court, Aberdeen, AB10 6DS (“the Property”)**

**Parties:**

**Kilkenny Properties Limited, 8 Victoria Street, Aberdeen, AB10 1XB (“the Applicant”)**

**Mr Russell Niven, 15 Bloomfield Court, Aberdeen, AB10 6DS (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of two thousand five hundred pounds sterling (£2,500) be granted against the respondent**

Introduction

This is an application under Rule 70 and Section 16 of the Housing (Scotland) Act 2014. The application seeks a payment order which relates to arrears of rent arising from an assured tenancy.

Service of the application and intimation of the initial Case Management Discussion (CMD) to take place on 29 October 2020 was effected upon the respondent by Sheriff Officer delivery on 24 September 2020.

The respondent did not lodge any written submissions and did not participate in the CMD on 29 October 2020. A payment order for the sum sought of £2,500 was granted at that time. The respondent made a subsequent application for recall on the basis that the Sheriff Officer’s intimation was defective as the time of the CMD was recorded incorrectly. The application for recall was granted by the Tribunal on 25

November 2020. This decision also required the respondent to lodge a written submission with the Tribunal within 14 days setting out his position. A subsequent direction was issued by the tribunal on 14 January 2021 which also required the respondent to lodge a written submission setting out his position. He has not lodged any documents.

A fresh CMD validly intimated upon the respondent took place on 4 February 2021 at 10am by teleconference. The respondent has authorised intimation of all documents to him by email. Intimation of the CMD to take place on 4 February 2021 was sent to the respondent on 14 January 2021 by email.

The CMD on 4 February 2021 was listed at 10am. The Tribunal commenced consideration of the application at 10.05am. The applicant was represented by Adam Morrow of Messrs Martin & Co, Letting Agents. The respondent joined and participated fully in the teleconference hearing.

### Findings and Reasons

The property is 15 Bloomfield Court, Aberdeen AB10 6DS.

The applicant is Kilkenny Properties Limited. The respondent is Mr Russell Niven.

The applicant is the landlord. The respondent is the tenant. The parties entered into a short assured tenancy which commenced on 16 June 2016. The monthly rent was stipulated at £650 per month.

A copy of the short assured tenancy and a statement of account showing the rental payments falling due together with all payments made by the respondent were produced. These are credible and reliable documents, and the Tribunal attached weight to them.

The statement of account discloses that the respondent has fallen into rent arrears. As at the date of application, the statement discloses that the respondent was in arrears of rent to the extent of £2,500. This is reflected as at 27 August 2020.

The rent statement also discloses that agreed reductions in rent have been applied during the tenancy. The regular rent was lowered firstly to £625 and then to £600 per month. Additionally for the months of April and May 2020 the rent was reduced to £300 to reflect the financial impact of Covid-19 restrictions.

The applicant is entitled to recover arrears of rent due under the lease.

The respondent accepted that the sums were due and had not been paid. He accepted that he had a legal responsibility to pay the sums. He has been adversely affected financially by the covid-19 pandemic. He stated that he was not in a position to make any realistic offers of instalment payments at the current time. A discussion took place about a time to pay application but this was not made in the

circumstances. It was acknowledged by Mr Morrow for the applicant that historically the respondent has been a model tenant for many years.

A payment order in the sum of £2,500 was granted against the respondent. The respondent consented to the order being made.

It is noted that a notice to quit was served upon the respondent. Due to the extension of the notice periods under the Coronavirus (Scotland) Act 2020 this required him to vacate the property on or before 17 March 2021. The respondent advised he had packed up his belongings and intended to hand back the keys imminently.

### **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.**

**4 February 2021**

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**Legal Member/Chair**

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**Date**