



**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/22/2901**

**Re: Property at 65 Vere Road, Kirkmuirhill, Lanark, ML11 9RP (“the Property”)**

**Parties:**

**Mrs Julie Speedie, 86 Cashmere Bay Road, Moana, RV1 New Zealand, BS2 0PT, New Zealand (“the Applicant”)**

**Mr Robert Sinclair, Unknown, Unknown previously of 11 Kype View, Strathaven ML10 6BX (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application is granted and the Applicant is entitled to an order for payment for £4105.05 (FOUR THOUSAND ONE HUNDRED AND FIVE POUNDS AND FIVE PENCE) with interest at 3% per annum from the date of the decision.**

**Background**

1. An application was received by the Housing and Property Chamber dated 15<sup>th</sup> August 2022. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent being the guarantor to the lease where rent payments were not maintained.
2. On 18<sup>th</sup> October 2022 all parties were written to with the date for the CMD of 25<sup>th</sup> November 2022 at 2pm by teleconferencing. Service by Advertisement was undertaken upon the Respondent from 18<sup>th</sup> October 2022.

### The Case Management Discussion

3. A CMD was held 25<sup>th</sup> November 2022 at 2pm by teleconferencing. The Applicant was represented by Mr John McKeown, solicitor, Jackson Boyd Lawyers. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the hearing.
4. Mr McKeown said that the deposit has been returned to the Applicant but was returned on the basis that it addressed some of the damage within the Property. This meant that none of the arrears had been addressed by the return of the deposit. He noted that when the Order was granted against the Tenant his colleague had erred in not asking for interest being granted and that the Respondent had signed the terms of the lease making him fully aware that this could be a possibility should the rent not be paid. There have been no payments and the amount is still outstanding. The Respondent has a legal duty in terms of the lease.
5. The Tribunal was satisfied that the outstanding amount for £4105.05 was due to the Applicant by the Respondent and that it was appropriate to grant an order for this amount plus interest at 3% per annum accordingly.

### Findings and reason for decision

6. A Private Rented Tenancy Agreement commenced 31<sup>st</sup> October 2020 and continued until 30<sup>th</sup> September 2021.
7. The Respondent is the guarantor to the lease. The Tenant persistently failed to pay her rent charge of £ 695 per month. The rent payments were due to be paid on 29<sup>th</sup> day of each month.
8. An order for the same amount was granted against the Tenant on 9<sup>th</sup> February 2022 under the case FTS/HPC/CV/21/2648. The tenant, Miss Kerry Sinclair, also was noted as having an unknown address.
9. The arrears are still outstanding since the tenancy ended on 30<sup>th</sup> September 2021. The arrears total £4105.05.

### Decision

10. The Tribunal found that the Applicant was entitled to be granted an order for payment from the Respondent amounting to £4105.05 with interest at 3% per annum from the date of this decision.

## **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.**

# Gabrielle Miller

**25<sup>th</sup> November 2022**

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**Legal Member/Chair**

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**Date**