



**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/19/3911**

**Re: Property at 3 Stuart Avenue, Burnside, Glasgow, G73 4JL (“the Property”)**

**Parties:**

**Mr Cliff Thomas, 10 Clamps Terrace, East Kilbride, G74 2HA (“the Applicant”)**

**Mr Stephen Calder and Mrs Hazel Calder, 3 Stuart Avenue, Burnside, Glasgow, G73 4JL (“the Respondents”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**Background**

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £4,022.06 to the Applicant in relation to non-payment of rent.
2. The application contained:-
  - a copy of the tenancy agreement, and
  - Rent account statement.
3. The Applicant appeared together with his representative, Pamela Davren, from Fineholm Lettings. There was no appearance by the Respondents.

4. Notice of the Hearing was originally served on the Respondents by sheriff officers on 7<sup>th</sup> January 2020, the Respondents had requested that the hearing be adjourned, and that postponement request had been granted. Notice of today's hearing had been posted to the Respondents. The Respondents had emailed the tribunal on 19 February 2020 seeking a further postponement. The request related to the first Respondent's application for bankruptcy proceedings not being concluded; failing which they sought confirmation that they were entitled to appeal any decision within a 30 day appeal period. The Applicant wished to proceed with today's hearing and advised that the case had already been postponed. It appeared that the postponement request related only to having final figures of outstanding debt agreed with the Accountant of Bankruptcy. Having regard to the overriding objective to deal with proceedings justly, and in this case, avoiding delays so far as compatible with the proper consideration of the issues, I was prepared to proceed with the hearing.

#### Hearing

5. The Applicant referred me to the papers which had been lodged in support of the application, including the tenancy agreement, and rent account statement.
6. The Applicant advised that the Respondents had been in the property for a number of years. There had been on-going rent arrears issues for a number of years, at least since around 2016. While there had been attempts by the respondents over the years to address rent arrears issues, on this occasion they had not been able or were unwilling to do so. The arrears had continued to accrue and there had been no payments to the rent account since September 2019. The arrears had continued to accrue since the application was lodged and were now £5,865.94. The applicant understood that the respondents were seeking bankruptcy. The applicant advised that the respondents were aware of the outstanding arrears and there had been attempts by his letting agent to get repayment arrangements entered into however they had been unsuccessful.

#### Findings in Fact

7. The Tribunal found the following facts to be established:
8. A tenancy agreement was entered into between the Applicant and the Respondents for the Property and exists between the parties. It was entered into on 7 November 2013.
9. Clause 2 in the tenancy agreement provides that monthly rent is £750 and the rent payment date is 1<sup>st</sup> of each month. Clause 2 of the tenancy agreement provides that monthly rent is due in advance.
10. That the rental statement showed amounts due each month, amounts received, and rent outstanding.

11. That the rental statement showed total rent arrears outstanding as at 1 December 2019 being £4022.06
12. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement and that the rent arrears had now increased to £5,865.94.

#### Reasons for Decision

13. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from assured tenancies.
14. As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this case.
15. The Respondents are aware of today's hearing.
16. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondents have failed to do so. There was submitted a rental statement showing the arrears due up to and including December 2019 and additional information provided today by the Applicant was that there had been no further payments towards the rent arrears and the arrears had in fact increased. The sum sought was therefore still outstanding.
17. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued for.

#### Decision

I grant an order in favour of the Applicant for FOUR THOUSAND AND TWENTY TWO POUNDS AND SIX PENCE (£4,022.06) STERLING against the Respondents.

#### **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.**

M Barbour

21. 2. 20

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**Legal Member/Chair**

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**Date**