



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 and Section 1A of the Debtors (Scotland) Act 1987

Chamber Ref: FTS/HPC/CV/25/2138

Re: Property at 8 Flat 2 Tudsbery Avenue, Greendykes, Edinburgh, EH16 4GX (“the Property”)

Parties:

CASTLE ROCK EDINVAR HOUSING ASSOCIATION LTD in association with PLACES FOR PEOPLE SCOTLAND, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mr Andrzej Lopaszynski, Ms Katarzyna Kwiatkowska, 8 Flat 2 Tudsbery Avenue, Greendykes, Edinburgh, EH16 4GX (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of SEVEN THOUSAND NINE HUNDRED AND SEVENTY-ONE POUNDS AND EIGHTEEN PENCE (£7,971.18). The Tribunal made a time to pay direction that the respondent is required to pay the sum of £400 per month until the full amount has been repaid.

Background

1. By application dated 19 May 2025 the applicant seeks an order for payment in respect of rent arrears. The application was heard alongside conjoined application FTS/HPC/EV/24/2124 seeking an order for eviction relying on

ground 11 (persistent delay in paying rent) and ground 12 (rent arrears) both in schedule 5 of the Housing (Scotland) Act 1988.

2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Rent statements
3. On 24 September 2025 the respondents submitted an application for a time to pay direction.
4. A case management discussion ("cmd) took place via teleconference on 21 October 2025. The cmd was adjourned to allow information to be provided to the Tribunal in relation to an application made by the respondents to the Tenant Hardship Fund.
5. A cmd was scheduled to take place on 26 March 2026 via teleconference.

Case management discussion – 26 March 2026 – teleconference

6. The applicant was represented by Mr Caldwell, Patten & Prentice. Both respondents were in attendance.
7. An updated rent statement had been submitted on behalf of the applicant to the Tribunal on 25 March 2026. The rent statement showed that arrears at the date of the cmd amounted to £7,971.18. The respondents did not dispute that the debt was due.
8. The respondents offered to pay £400 per month towards the debt. Mr Caldwell made no opposition to a time to pay direction being granted on the basis sought by the respondents.
9. Mr Lopanszynski stated that he is currently employed as a delivery driver. His income from employment is £1300 per month. In addition the household receives £500 per month universal credit, £200 per month child benefits and statutory of sick pay of £475 per month for Ms Kwiatkowska

Findings in fact and law

1. Parties entered into a tenancy agreement with a commencement date of 9 November 2016.
2. Monthly rent due in terms of the agreement is £777.90.
3. Outstanding arrears as at 26 March 2026 amounted to £7,971.18.
4. The respondents approximate monthly income is £2475.
5. The respondents approximate monthly outgoings are £1,888.
6. The Tribunal having regard to section 1 of the Debtors (Scotland) Act 1987 and the matters set out in section 1A of that Act determined that it was reasonable in all the circumstances to make a time to pay direction requiring the respondent to repay the arrears at the rate of £400 per month.

Reasons for decision

7. The Tribunal had regard to the application and the documents lodged by the applicant and the respondent. The Tribunal also took into account the time to pay application and oral submissions at the cmd.
8. Section 1A of the Debtors (Scotland) Act 1987 states that in determining whether it is reasonable in the circumstances to make a time to pay direction the Tribunal shall take into account the following matters:

(a) the nature of and reasons for the debt in relation to which decree is granted;

(b) any action taken by the creditor to assist the debtor in paying that debt;

(c) the debtor's financial position;

(d) the reasonableness of any proposal by the debtor to pay that debt; and

(e) the reasonableness of any refusal by the creditor of, or any objection by the creditor to, any proposal by the debtor to pay that debt

9. The Tribunal noted that debt had arisen as a result of a change in the respondents financial circumstances. In particular arrears began to build up after both respondents were placed on furlough at the start of the coronavirus pandemic in March 2020.
10. The Tribunal was satisfied on the basis of the financial information provided by the respondents and their previous record of payment that payments could be maintained at the proposed rate. The Tribunal took into account that payments at the rate of £400 per month would repay the debt within 20 months.
11. The Tribunal took into account that the applicant did not oppose the application.
10. Taking the foregoing circumstances into account the Tribunal determined that it was reasonable to make a time to pay direction.

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.

Mary-Claire Kelly

Legal Member/Chair

26 March 2026 _____
Date