



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/26/0180

Re: Property at 170 High Street, Biggar, Lanarkshire, ML12 6DH (“the Property”)

Parties:

Mrs Gillian McDonald, 184 High Street, Biggar, Lanarkshire, ML12 6DH (“the Applicant”)

Mrs Lisa Carey, 5 Knock Street, Biggar, ML12 6DY (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is liable to pay the Applicant the sum of Three thousand nine hundred and fifty one pounds and sixty pence (£3951.60) Sterling under the terms of the private residential tenancy agreement between the parties.

The Tribunal therefore made an order for payment in the sum of £3951.60.

Background

- 1 This is an application for a payment order under rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 71 of the 2016 Act. The Applicant sought to recover unpaid rent from the Respondent in the sum of £3951.60.
- 2 The application was accepted and referred to a tribunal for determination. A case management discussion was scheduled to take place on 29 June 2026 at 2pm by teleconference. The Tribunal gave notice of the CMD to the parties in accordance with Rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers.

- 3 On 3 June 2026 the Tribunal received a time to pay application from the Respondent offering payments of £50 per month. The Respondent outlined her personal circumstances and her financial position. She stated that she was liaising with the Citizens Advice Bureau with a view to setting up a debt advice plan as she had various debts.
- 4 On 10 June 2026 the Tribunal received a response from the Applicant opposing the Respondent's time to pay application.
- 5 On 12 June 2026 the Tribunal received an email from the Applicant clarifying the position regarding the deposit.
- 6 On 17 June 2026 the Tribunal received further written representations from the Respondent. The Respondent indicated that the most she could afford was £85 per month.

The CMD

- 7 The CMD took place by teleconference on 29 June 2026. The Applicant joined the call. The Respondent did not. The tribunal clerk attempted to telephone the Respondent but there was no response. The tribunal noted that she had received proper notice of the CMD and had not provided any explanation for her failure to attend. The tribunal therefore delayed the start time of the CMD for a short period of time before determining to proceed in the Respondent's absence.
- 8 The tribunal had the following documents before it:-
 - (i) The application form and supporting documents including the private residential tenancy agreement between the parties, rent statements, rent increase notices, email correspondence between the parties, notice to leave and section 11 notice.
 - (ii) The Respondent's time to pay application and written submissions dated 2 and 16 June 2026.
 - (iii) The Applicant's response to the time to pay application and written submissions dated 10 and 12 June 2026.
- 9 The tribunal heard submissions from the Applicant. She sought a payment order in the sum of £3951.60. The Respondent had left the property in December 2025 but had not returned the keys for the property until March 2026 which the Applicant felt was deliberate on the Respondent's part. No rent had been paid since September 2025. The Respondent had also left various belongings which delayed the repossession of the property. The Applicant opposed the initial time to pay application as it would take around 6 years to clear the balance at £50 per month. The Applicant also felt the increased offer

of £85 per month was unreasonable as it would take around 4 years for the arrears to be paid at that rate.

Findings in fact

- 10 The Applicant is the owner and landlord, and the Respondent was the tenant, of the property in accordance with a private residential tenancy agreement.
- 11 The tenancy between the parties terminated on 2 March 2026.
- 12 The rent due under the terms of the tenancy was £695 per month. The rent was increased incrementally to £715.84 per month on 7 July 2023 and to £765 per month on 7 February 2025.
- 13 The Respondent did not pay rent as agreed. As at the termination of the tenancy rent arrears of £3951.60 had accrued.
- 14 The Respondent is liable to pay the sum of £3951.60 to the Applicant under the terms of the tenancy agreement between the parties.

Reasons for decision

- 15 The tribunal considered it had sufficient information to reach a decision on the application following the CMD and in the absence of a hearing under Rule 18 of the Rules. The Respondent had admitted liability for the claim. Accordingly, the only remaining issue for the tribunal to determine was whether to make a time to pay direction in this case.
- 16 In terms of the Debtors (Scotland) Act 1987, the tribunal may make a time to pay direction if satisfied that it is reasonable in the circumstances to do so. The tribunal therefore had to consider whether the rate proposed by the Respondent was reasonable in the context of this case.
- 17 The tribunal carefully considered the terms of the Respondent's application for a time to pay direction. The tribunal noted that the original application proposed payments of £50 per month, and that the Respondent had subsequently indicated she could increase the offer to £85 per month. However, even at the increased rate, it would take just under four years to repay the arrears. The tribunal considered that this was not a reasonable period of time within which the debt should be repaid. The tribunal understands and appreciates the Respondent's precarious financial position which has led her to seek debt advice. The tribunal accepts that she has other debts and £85 per week may be the maximum she can afford given that she is the sole carer for her three children. However, the tribunal would expect any reasonable offer to be one that would repay the debt within a maximum of two years. The tribunal considers it would be unfair for the Applicant to have to wait any longer to recover payment of the sum claimed.

18 Accordingly, having concluded that it was unreasonable in all of the circumstances to award such an instalment rate the tribunal determined to refuse the application for a time to pay direction and made an order for payment in the sum of £3951.60.

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.

Ruth O'Hare

29 June 2026

Legal Member/Chair

Date