



**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 for Civil Proceedings in relation to a short assured tenancy under the
Housing (Scotland) Act 1988**

Chamber Ref: FTS/HPC/CV/0918

**Re: Property at 4/12 Lochend Butterfly Way, Edinburgh, EH7 5BF (“the
Property”)**

Parties:

**Cityscape Edinburgh LLP, 1 Hay Avenue, Edinburgh, EH16 4RW (“the
Applicant”)**

**Mr Henryk Tomasz Czajkowski, 4/12 Lochend Butterfly Way, Edinburgh, EH7
5BF (“the Respondent”)**

Tribunal Members – Karen Kirk, Legal Member.

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 16 of the Housing (Scotland) Act 2014 for civil proceedings in relation to a short assured tenancy under the Housing (Scotland) Act. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented Kirsty Morrison, TC Young Solicitors, 7 West George Street, Glasgow G2 1BA.

The Respondent attended the Tribunal personally.

Preliminary Matters

This Applicants had submitted an application to amend under Rule 14A and this had been intimated on the Respondent on 23rd July 2020. The Respondent accepted same

and had lodged a Time to Pay application. The sum now sought in terms of the amendment which was allowed as properly intimated and evidenced was £12,643.58.

The Respondent had submitted a detailed Time to Pay Application to the Tribunal for consideration.

There were no other preliminary matters arising.

Matters Raised

The Tribunal confirmed with the Applicant's representative that they sought a payment order in terms of the Tenancy agreement lodged and dated 15th July 2016 for non payment of rent amounting to the amended sum of £12,643.58. The rent evidence in the Application confirmed the Applicant's position.

The Respondent advised that he accepted the amount but sought a Time to Pay direction. He said he had gone through a difficult financial period and gave detailed submissions regarding this. He said his financial circumstances were made worse by the covid-19 pandemic and because the joint tenant left the property but had been responsible for payments. He said he was not able to pay the full amount but sought a direction to allow him to pay the amount of £200 per month.

The Applicant's representative made clear the Application were opposed to the Time to Pay Application on the basis the debt would take over 5 years to clear and that the Applicants instructions were that the Respondent would be unlikely to adhere to the amount offered.

There were no other matters arising.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted

- 1. An order against the Respondents for payment of the sum of £12643.58 to the Applicant, under section 16 of the Housing (Scotland) Act 2014.**
- 2. A time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, in the following terms:**

The respondent is required to pay the sum of £200 per month until the full amount has been paid. The first payment must be made no later than 1 month after intimation of the Order.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent was in a position to accept the rent arrears to the sum of £12,643.58, which was agreed by the Applicant.**
- 2. The Tribunal was satisfied that the relevant tenancy was in terms of of the 1988 Act, a Short Assured Tenancy properly constituted and dated 15th July 2016. The Tribunal was further satisfied that the rent due was £625.26 per month and on the evidence before the Tribunal rental arrears had accrued in terms of this tenancy to the sum of £12,643.58. Rental evidence had been lodged by the Applicant evidencing the rent due. Further the Respondent accepted the debt due.**
- 3. Parties were in agreement that the Order sought at the hearing should be £12,643.58 following a properly served application to amend the sum sought in terms of Rule 14A of the Procedure Rules.**
- 4. Accordingly in terms of Section 16 of the Housing (Scotland) Act 2014 the Tribunal granted a payment order against the Respondent for the sum of £12,543.58.**
- 5. The Respondent had lodged a Time to Pay Application. He sought to pay the amount of £200 per month. He was clear on the consequences of not doing so. The Tenancy had been a joint tenancy and the joint tenant had left in 2019. The debt had accrued since July 2016. The Respondent had been enduring financial difficulty and this had been exacerbated due to the Covid-19 pandemic. He explained the joint tenant had been responsible between them for the payments and had not met them. He provided full reasons and the Application to pay had been completed appropriately. Whilst the Tribunal accepted the amount offered would mean the debt would not be paid for over 5 years it was around 5.27 years and in light of this, recent financial hardship, the covid-19 pandemic, the fact that the Respondent had had a joint tenant and the application he lodged the Tribunal was appropriate, in their discretion considered in the particular circumstances that it was appropriate.**

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.

10/08/2020

Legal Member/Chair

Date