

**Notice of Review and Direction under sections 16 and 39(4) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017**

**Chamber Ref: FTS/HPC/CV/22/4423**

**Re: Property at 273 Brechin Road, Arbroath, DD11 4BA (“the Property”)**

**Parties:**

**Mr Eric Reid, C/O Wardhaugh Property, CO Wardhaugh Property (“the Applicant”)**

**Mr Craig Cooper, Mrs Stacey Cooper, 273 Brechin Road, Arbroath, DD11 4BA (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member)**

**Background**

- 1** Reference is made to the decision of the Tribunal dated 4 April 2023 in terms of which the Tribunal made an order for payment against the Respondents in favour of the Applicant in the sum of £2098.63.
- 2** On 8 April 2023 the Tribunal received an email from the second named Respondent. She set out grounds upon which she was disputing some of the statements made by the Applicant at the Case Management Discussion. She further reiterated her offer of £50 per week towards the arrears and confirmed she did not dispute the outstanding sum, she just required further time to pay.
- 3** The Tribunal served a Notice of Review and Direction to the parties intimating the request for review and asking for submissions, including views as to whether the matter could be dealt with without a hearing. The Tribunal received a response from the second named Respondent on 31 May 2023. She again advised that she would be willing to pay £50 per week. Her work had been closed due to illness over the last few weeks. She summarised issues she had faced during the tenancy in terms of a lack of communication from the Applicant's Representative, and she did plan on buying the property but was no longer able to do so. She denied running a business from the address. Whilst she had asked for permission to do this, she was unable to do so due to insurance reasons. She confirmed that alterations had been made to the

property during the tenancy, however the majority of the work were carried out by family members at no cost. The Respondent concluded by advising that she did not have the funds to pay the rent arrears and proposed the offer of £50 per week. The Applicant did not provide any further submissions, only a request for an update on the outcome of the review. Neither party requested a hearing.

## Relevant Legislation

- 4 The provisions regarding review of a Tribunal decision are contained with Rule 39 of the Procedural Rules:-

*“39.—(1) The First-tier Tribunal may either at its own instance or at the request of a party review a decision made by it except in relation to applications listed in rule 37(3)(b) to (j), where it is necessary in the interests of justice to do so.*

*(2) An application for review under section 43(2)(b) of the Tribunals Act must—*

*(a) be made in writing and copied to the other parties;*

*(b) be made within 14 days of the date on which the decision is made or within 14 days of the date that the written reasons (if any) were sent to the parties; and*

*(c) set out why a review of the decision is necessary.*

*(3) If the First-tier Tribunal considers that the application is wholly without merit, the First-tier Tribunal must refuse the application and inform the parties of the reasons for refusal.*

*(4) Except where paragraph (3) applies, the First-tier Tribunal must notify the parties in writing—*

*(a) setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing; and*

*(b) may at the discretion of the First-tier Tribunal, set out the First-tier Tribunal's provisional views on the application.*

*(5) In accordance with rule 18, the decision may be reviewed without a hearing.*

*(6) Where practicable, the review must be undertaken by one or more of the members of the First-tier Tribunal who made the decision to which the review relates.*

*(7) Where the First-tier Tribunal proposes to review a decision at its own instance, it must inform the parties of the reasons why the decision is being reviewed and the decision will be reviewed in accordance with paragraph (4) (as if an application had been made and not refused).*

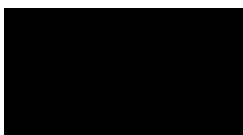
*(8) A review by the First-tier Tribunal in terms of paragraph (1) does not affect the time limit of 30 days in regulation 2(1) of the Scottish Tribunals (Time Limits) Regulations 2016 for making an application for permission to appeal.”*

## Decision

- 5 The Tribunal, having reviewed its decision, determined to set the decision aside and make an order for payment in the sum of £2089.63 with a time to pay direction at the rate of £50 per week from the date of decision until payment.

### **Reasons for Decision**

- 6 The Tribunal was satisfied that it had sufficient information upon which to determine the request for review. Neither party had requested a hearing and the Tribunal saw no requirement for one.
- 7 The second named Respondent had put nothing before the Tribunal that would equate to a stateable defence to the application. Whilst she had outlined some points in response to the statements made by the Applicant at the Case Management Discussion, it was clear from her repeated offer of payment towards the debt that she accepted it was due.
- 8 The Tribunal did however note that payments at the rate of £50 per week would clear the debt in approximately 10 months, which the Tribunal considered to be a reasonable time period. Whilst the Tribunal was conscious of the Applicant's skepticism as to whether payments would in fact be made, he would of course be entitled to recover the whole sum due in the event of the Respondents failing to adhere to the time to pay direction. The Tribunal noted the dispute between the parties regarding the circumstances surrounding the tenancy, but ultimately the substantive fact was agreed, namely that the debt was due to be paid. The Tribunal considered that it would be reasonable to allow the Respondents the opportunity to do so at the rate of £50 per week, failing which the Applicant can proceed and enforce the order for the full amount.



**Legal Member**

**2 June 2023**

**Date**