



**Decision with statement of reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 16 of the Housing (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/20/2564**

**Re: Property at 35 The Playfair, 1 Donaldson Drive, Edinburgh, EH12 5FA (“the Property”)**

**Parties:**

**Mr Campbell Kinnear, Mrs Jill Kinnear, 2 Links View, Cruden Bay, Peterhead, AB42 0RF (“the Applicant”)**

**Miss Krisztina Beata Fodor, Mr David Robertson Lenox, 35 The Playfair, 1 Donaldson Drive, Edinburgh, EH12 5FA (“the Respondent”)**

**Tribunal Members:**

**Maurice O’Carroll (Legal Member) and Elizabeth Dickson (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for payment should be made in the sum of £7,550 with a Time to Pay Direction attached.**

**Background**

1. A Hearing was held by telephone conference commencing at 10am on 18 February 2021. Reference is made to the background, hearing discussion, findings in fact, decision and discussion under application reference FTS/HPC/EV/20/2565 which are not repeated in the present decision.
2. The application for civil recovery under the current reference was made on the same date as the application for recovery of possession noted above. The Tribunal considered the application for civil recovery after it had made a determination in the related application for recovery of possession of the Property.

**The Hearing**

3. At the time of the application, the rent arrears were in the amount of £9,050. By the date of the hearing, rent arrears were in the amount of £7,550. The amount of

rent arrears was not disputed by the Respondents during the course of the hearing. Mr Kemp for the Applicants accepted that the maximum amount that he could seek by way of civil recovery was the lower amount of £7,550.

4. During the course of the Hearing, the Respondents sought a time to pay Direction. This was opposed by the Applicants who wished to have an Order granted for payment of a single lump sum in the amount owing.
5. The Hearing was adjourned until 3pm in order to permit the Respondents to make the necessary application for a time to pay direction for the Tribunal to consider. The Hearing was re-convened at 3pm but the Applicants had been unable to complete the necessary form. The Tribunal was thereafter adjourned once again until 4pm.
6. At 4pm the Respondents produced the necessary application for a time to pay direction. Their proposal was similar to that produced in evidence in relation to the eviction application. They offered to pay the rent due on 20<sup>th</sup> of each remaining month in terms of the rental agreement and in addition to pay the sum of £1,500 per month on the 26<sup>th</sup> of each month until the arrears had been paid off. These arrangements were specifically confirmed at section 8(c) of the application form completed during the adjournment.
7. The Tribunal considered whether it would grant the direction sought by the Respondents. Having regard to the level of the debt, the circumstances in which it had been incurred, the Respondent's financial position and its reasonableness overall, the Tribunal decided that it would grant the application for a time to pay direction.
8. The Order accompanying this decision reflects the discussion at the Hearing and the undertaking provided in the application form completed by the Respondents. The Respondents should be aware that in the event of a single default, the whole amount due under the Order will be payable immediately. They should also be aware that having been granted a time to pay direction on one occasion in relation to this debt, they may not apply for another one at a later date.

### **Findings in fact**

9. The Applicants provided the Tribunal with an updated Schedule of rent which was not disputed by the Respondents. The Schedule demonstrated that the Respondent was in arrears of rent to the extent of £7,550 as at the date of the Hearing.
10. The Respondents sought a Time to Pay Direction which was opposed by Mr Kemp on behalf of the Applicants. This was granted by the Tribunal.

### **Decision**

11. In light of the above findings in fact, the Tribunal is satisfied that:

- Rent arrears are admittedly due as at the date of the Hearing in the sum of £7,550.
- An Order for Payment will be made in that amount.
- A Time to Pay Direction will be made whereby in addition to the rent due for the final months of the tenancy, the Respondents will additionally pay the sum of £1500 every month on the 26<sup>th</sup> of the month, commencing on 26<sup>th</sup> February 2021 as per the Standing Order mandate provided to the Tribunal until the arrears of rent are paid off.
- The Respondents understand that if any of the payments in respect of arrears of rent due in terms of the Time to Pay Direction are missed, they will be liable for the whole of the remaining amount and that proceedings to recover the amount outstanding may be taken against them by the Applicants.

12. Therefore, the Tribunal granted the Order for Payment sought, subject to the Time to Pay Direction requested and granted by the Tribunal.

### **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

Maurice O'Carroll  
**Legal Member/Chair**

19 February 2021

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**Date**