



**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**

Chamber Ref: FTS/HPC/CV/23/2932

**Re: Property at 22 Windsor Road, Holytown, Motherwell, ML1 4QR (“the
Property”)**

Parties:

**Mr Scott Brown, 2 Glengoyne Drive, Carfin, Motherwell, ML1 4GB (“the
Applicant”)**

**Mrs Andrene McKenna Partridge, Mr Neil Partridge, 255 O'Wood Avenue,
Motherwell, ML1 4TT (“the Respondent”)**

Tribunal Members:

Mary-Claire Kelly (Legal 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 £7,082
together with interest at the rate of 8% per annum from the date of the order.
The Tribunal made a time to pay direction that the respondent is required to
repay the sum of £40 per week until the full amount has been repaid.**

Background

1. By application submitted on 25th August 2023 the applicant seeks an order for payment in respect of rent arrears.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Rent statements
 - Copy email correspondence between parties

3. Prior to the case management discussion the respondents lodged a time to pay application offering to repay the debt at the rate of £10 per week.
4. A case management discussion (“cmd”) was assigned for 29th January 2024.

Case management discussion – 29th January 2024- teleconference

5. The applicant was represented by Ms Doyle, Solicitor, McEwan Fraser. Mrs Partridge appeared on behalf of both respondents.
6. Mrs Partridge confirmed that the respondents had moved into the house in November 2015. A further short assured tenancy agreement was entered into between parties on 1st June 2017. Mrs Partridge accepted the outstanding arrears amounted to £7082.
7. Mrs Partridge advised that monthly rent had been £650. She had begun struggling to pay the rent due to the covid pandemic. Mrs Partridge advised that she had lived in the property with her husband and their 3 children who are currently 23, 19 and 16 years old. She had previously been employed as an auxiliary nurse in the NHS. In or around 2019 she and her husband had established a cleaning business. The business had initially been successful however it was badly impacted by the lockdowns during the pandemic. In addition Mrs Partridge contracted covid and has been suffering with long covid since. Mrs Partridge advised that her ill health as a result of long covid and other conditions has impacted on her ability to work and earn income. Her husband’s income has also reduced as the cleaning business as struggled.
8. Mrs Partridge confirmed that the respondents moved out of the property in August 2023 into a new rental property.
9. The Tribunal noted the financial information provided by the respondents in their time to pay application. They stated that their weekly income from employment was £110. In addition they received £1160 per month from disability living allowance and carers allowance. Mrs Partridge advised that her daughter who resided with them was also suffering from a disability.
10. Mrs Partridge had listed outgoings amounting to £1585 in the time to pay application and stated that the respondents had no savings. Mrs Partridge stated that she wanted to repay the debt but was concerned not to offer more than the family could afford.

11. For the applicants Mrs Doyle stated that her client had rejected the offer to repay the debt at £10 per week. She stated that her client's main concern was the length of time that it would take to repay the debt at that rate. Mrs Doyle also questioned whether the respondents might not be able to pay more. She advised that there were 2 adults in the respondents home who were working. She questioned the stated income from employment and whether that might not be increased. Mrs Doyle also stated that even taking into account the figures which had been provided it should be possible for the respondents to pay more money than was being offered. Mrs Doyle advised that it would take over 13.5 years to repay the debt at the rate being offered which was unacceptable.
12. During the discussion Mrs Partridge indicated that she would be prepared to increase the amount of payment being offered. She stated that she would propose £30 per week with a maximum offer of £40 per week. She stated that this would leave little left for additional expenses that might come up but that it was affordable.
13. The cmd was adjourned to allow Mrs Doyle to take her client's instructions on the increased offer. She confirmed that the amount of £40 per week was acceptable.

Findings in fact

14. Parties entered in a tenancy agreement with a commencement date of 1st July 2017.
15. Monthly rent due in terms of the agreement was £650.
16. The respondents moved out of the property and terminated the lease in August 2023.
17. Outstanding arrears as at 8th August 2023 amounted to £7,032.

Findings in fact and law

18. 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 respondents to repay the arrears at the rate of £40 per week.

Reasons for the decision

19. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account the time to pay application and oral submissions at the cmd.

20. 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

21. The Tribunal noted that the debt had arisen due to changes in the respondents financial circumstances which were due to no fault on their part and were caused by the economic and physical consequences of the covid pandemic.

22. The Tribunal noted that the applicant had been sympathetic in his treatment of the respondents and had sought to reach agreements with the respondents regarding repayment. The respondents had failed to adhere to a previous repayment arrangement.

23. The Tribunal took into account that the respondents had significantly increased their offer during the course of the cmd and that the applicant had indicated that the increased offer was acceptable to him. The Tribunal noted that the debt would be paid off in approximately 3.4 years if payments were maintained at the offered rate.

24. The Tribunal noted that the respondents accepted full responsibility for the debt.

25. In all the circumstances the Tribunal determined that it was reasonable to make a time to pay direction.

Decision

The Tribunal determined to grant an order for payment in the sum of £7,082 together with interest at the rate of 8% per annum from the date of the order. The Tribunal made a time to pay direction that the respondent it required to repay the sum of £40 per week until the full amount has been repaid.

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

29 January 2024
Date