



**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/24/0562**

**Re: Property at 11 Mansfield Avenue, Newtongrange, EH22 4SE (“the Property”)**

**Parties:**

**Mr Craig Miller, 32 Kippielaw walk, Dalkeith, EH22 4HS (“the Applicant”)**

**Ms Lynn Mabon, 11 Mansfield Avenue, Newtongrange, EH22 4SE (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £10375 (TEN THOUSAND THREE HUNDRED AND SEVENTY FIVE POUNDS).**

**Background**

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The application was dated 5<sup>th</sup> February 2024. The Applicant is seeking an order for payment of the sum of £5275 in terms of s16 of the Housing (Scotland) Act 2014.
2. On 27<sup>th</sup> June 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 5<sup>th</sup> August 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 18<sup>th</sup> July 2024.
3. On 28<sup>th</sup> June 2024, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 28<sup>th</sup> June 2024.

## Case Management Discussion

4. A CMD was held on 5<sup>th</sup> August 2024 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr Ashley Purren, Pure Property Management Edinburgh LTD. The Respondent was present and represented herself.
5. Mr Purren said that the arrears had now risen to £10375. The last payment was on 1<sup>st</sup> February 2024 for £825 which is not the full amount of the rent. The Applicant is the Power of Attorney for the owner, Ms Cora Wilkie. Ms Wilkie is in a care home or assisted living facility. It is paid from the rent from this property. As there have been very few payments, which has caused there to be arrears on the rent account, it has caused Ms Wilkie financial hardship as this is now not paying her accommodation.
6. The Respondent said that she lives in the Property with her four children who are aged 8, 11, 14 and 16 years old. The two eldest are girls and the two youngest are boys. She has struggled financially being a single parent and being able to make all of the payments that she is required to do so. She has not sought any money advice. There have been some issues in the Property since March/April 2024 with a leaking radiator in her sons room which has meant that the Respondent has had to lift the carpet as it was wet and caused dampness. This is not the reason that she has not made payments that remains being due to financial pressures. She has spoken to her local authority housing department who are waiting to know the outcome of this CMD. She will initially be rehoused to a three bedroomed house but will be permanently rehoused to a four bedroomed house. She wants to make a payment plan to pay the arrears. She works fulltime. She receives Universal Credit and Child Benefit for her children.
7. Mr Purran said that there was a payment offer made for £900 in January 2024. However, payments were not forthcoming. The Applicant would be willing to accept a reasonable payment offer but requires the eviction order so that the Property can be re-let and income from the Property be resumed. He noted that there has been issues of access to get essential certificates undertaken such as the EICR. Mr Purran noted that the Respondent owns half of another property and queried why she could not live in that property.
8. The Respondent said that she mainly works night shift which makes it difficult for her to be up to be there for repairs and other matters to be done when she has been working the night before. She said that she does own half a house with her ex partner. He lives in it now. It is a two bedroomed house which is too small for her family so would not be an option. The Respondent said that she was not opposing an order for eviction as the Property is not suitable for her.
9. The Respondent admitted the debt and wants to make a payment plan still. The Tribunal discussed if she had considered a Time To Pay direction. A discussion followed regarding a Time To Pay Direction ("TTPD"). It was explained that this would allow the Respondent to pay up the outstanding arrears. Mr Purren said that he was open to this option depending on the amount offered. The Tribunal

noted that the Respondent will need to be active in applying for the TTPD. She will need to contact the Housing and Property Chamber to request that a TTPD be sent to her. If she is looking to seek free money advice to help her complete the TTPD then this appointment will need to be made and attended in advance of the next CMD so that the Applicant can consider the contents of the TTPD. A money adviser would be able to assist her to ensure that she was making an offer that she could sustain and continue to pay her ongoing rent charge. Once the TTPD has been completed it will need to be lodged with the Housing and Property Chamber. The Applicant and Tribunal will then be sent a copy of it. If the Applicant agrees to the amount offered then the case will be dealt with administratively and will not proceed to the CMD. If the amount offered is not accepted by the Applicant then the case will proceed to the CMD. The Tribunal noted that a TTPD allows for the outstanding amount to be paid in instalments. Should those instalments stop before the debt is repaid then the Applicant is entitled to a full order for the remaining amount. The ongoing rent charge must be paid to prevent the arrears accruing further which will result in her defaulting in the TTPD. The Tribunal also noted that should the Respondent decide not to proceed with a TTPD it will be most likely that at the next CMD the Tribunal will grant the full order as the debt has been admitted. The Respondent understood these points. She was willing to look at lodging a TTPD and will get money advice. Adjourned to a further CMD to allow for a TTPD to be lodged by the Respondent and considered by the Applicant.

#### The continued CMD

10. A CMD was held on 11<sup>th</sup> September 2024 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr Ashley Purren, Pure Property Management Edinburgh LTD. The Respondent was present and represented herself.
11. The Tribunal noted that a TTPD had not been lodged. The Respondent said that she had not completed one. She has not been to get money advice as she has not had time to do so or to call a money advice organisation for advice. She has not made any payments to her rent as she has not been able to afford it. She has not made any payments to the arrears.
12. Mr Purran said that the Appellant was still looking for the outstanding arrears as amended at the last CMD, namely £10375. He noted that the arrears have now risen to £11225. There have been no payments to the rent since the last CMD. The Respondent accept that the arrears were amended to £10375 at the last CMD. The Respondent admits the arrears. The Respondent said that she still wanted to make a payment plan.
13. The Tribunal noted that the last CMD was continued to allow the Appellant to make a payment plan but that given that there have been no steps to proceed to make payment to the arrears or pursue a TTPD, the Tribunal could only grant an order for payment in favour of the Applicant.

### Findings in fact

14. The parties entered into a Short Assured Tenancy on 1<sup>st</sup> June 2017 for a 6 month period until 2<sup>nd</sup> December 2017 and on a month to month basis thereafter. The rent payments of £850 are due by the first day of each month.
15. The Respondent admits that the rent arrears are due and that she owes this money to the Applicant.
16. The Respondent has not obtained money advice to address the arrears or taken consideration of a TTPD.
17. The arrears due to the Applicant in this application amounts to £10375. The arrears have increased to £11225.

### Reasons for Decision

18. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The arrears have increased since the application was lodged. The Respondent admits the arrears. As a consequence, the Applicant was entitled to be granted the Order for payment of £10375 against the Respondent.

### Decision

19. The Applicant is entitled to an order of payment of £10375 by the Respondent. The Order was granted against the Respondent.

### **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.**

G Miller

**11<sup>th</sup> September 2024**

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**Legal Member**

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**Date**