

**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/23/2873**

**Re: Property at 14 Robertson Crescent, Saltcoats, KA21 5JD (“the Property”)**

**Parties:**

**Miss Carol Cargan, 33 Caledonia Road, Saltcoats, KA21 5AJ (“the Applicant”)**

**Miss Lorna Wyper, Miss Caleigh McLean, 19 Morrison court, Stevenston,  
KA204JS; 1 Monkton Gardens, Newton Mearns, G77 5HW (“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 £5595 (FIVE THOUSAND FIVE HUNDRED NINETY FIVE POUNDS) [to be paid by a Time to Pay Direction at £100 (ONE HUNDRED POUNDS) per month from 1<sup>st</sup> February 2025].**

**Background**

1. An application was received by the Housing and Property Chamber dated 20<sup>th</sup> October 2023. The application was submitted under Rule 70 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondents not maintaining rent payments.
2. On 7<sup>th</sup> May 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 12<sup>th</sup> June 2024 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 28<sup>th</sup> May 2024.

3. On 8<sup>th</sup> May 2024, sheriff officers served the letter with notice of the CMD date and documentation upon the second named Respondent by letterbox service. This was evidenced by Certificate of Citation dated 8<sup>th</sup> May 2024. Service was not able to be effected upon the First Named Respondent. Service by advertisement was undertaken upon the First Named Respondent.
4. A Time To Pay Direction ("TTPD") was lodged by the Second Named Respondent dated 29<sup>th</sup> May 2024. The TTPD offered to pay £50 per month to the arrears.
5. On 5<sup>th</sup> June 2024, the First Named Respondent emailed the Housing and Property Chamber stating that she had become aware of the Service by advertisement. She included her new address. This was added to the First Named Respondent's details.
6. On 10<sup>th</sup> June 2024, the Second Named Respondent emailed the Housing and Property Chamber stating that she had become aware that she was not able to be located. She included her new address. This was added to the Second Named Respondent's details.
7. On 10<sup>th</sup> June 2024, the First Named Respondent emailed the Housing and Property Chamber confirming that she could be contacted by the email address that she had been contacting from.

#### Case Management Discussion

8. A CMD was held on 12<sup>th</sup> June 2024 at 11.30am by teleconferencing. The Applicant was not present but was represented by Ms Meaghan McDiarmid, Hovepark Lettings. The Respondent were both present. Both Respondent represented themselves independently from each other.
9. Ms McDiarmid said that Ms McLean has made 8 payments of £50 per month. The arrears have reduced from £575 to £6175. The rent account which was lodged with the Tribunal states that there are no arrears. This is because the Respondents have vacated the Property. Their system then clear the arrears from that rent account as there will be no further rent charges applied to the account. Ms McDiarmid said that the Applicant did not accept the offer contained within the TTPD. It will take over 10 years to pay.
10. Ms McLean said that she will keep to paying £50 per month. She is trying to pay other debts as well as this one. She has tried to speak to Citizens Advice Bureau but has not got an appointment. She has not looked anywhere else for money advice. Ms McLean said that she was not disputing the debt. Ms McLean left the Property in March 2023. She did not give any notice to the Applicant.
11. Ms Wyper told the Tribunal that she had only received a copy of the papers on the day of the Tribunal. She left in August 2023 at the end of the period for the Notice to Quit. She said that she disputed that the arrears are due by her. She

had paid the rent charge when in the Property without any financial contribution from Ms McLean. She considers that she has paid her share. She does not dispute the debt but that she should be paying it. The Tribunal explained that the Respondents were jointly and severally liable for the debt. This means that they are both equally liable for it. It does not mean that there is a half share for each to pay but rather that the whole amount is owed by both Respondents until the debt is paid. This can mean that only one person pays or both pay but either way it is due by both the Respondents. Ms McLean has offered £50 per month. As the debt cannot be split an agreement on a TTPD would be expected by either Respondent or a combination of both of them. Ms Wiper said that she was no longer in contact with Ms McLean. The Tribunal said that given that the CMD is to be adjourned to allow Ms Wiper's time to read the papers, both of the Respondents should seek money advice independently from each other. It will not be possible for the Tribunal to split a TTPD as both Respondents remain jointly and severally liable which means that any TTPD would be legally binding upon both the Respondents. Money advice may allow both Respondents to be able to make a proposal in terms of the repayment and decide if one or both of them wish to lodge a further TTPD. It will also allow time for the Respondents to seek advice in terms of their legal obligations of being jointly and severally liable for the debt. The Tribunal noted that both Respondents had not disputed the arrears. The application was continued to a further date to allow for Ms Wiper to read the papers attached to the application. It will also allow both Respondents to seek money advice independently from each other. The application was continued to a further date to allow for Ms Wiper to read the papers attached to the application. It would also allow both Respondents to seek money advice independently from each other.

#### The continued CMD

12. A CMD was held on 3<sup>rd</sup> October 2024 at 2pm by teleconferencing. The Applicant was not present but was represented by Ms Meaghan McDiarmid, Hovepark Lettings. The Respondents were both present. Both Respondents represented themselves independently from each other. Ms Margaret Saunders, Ms McLean's cousin, was present as moral support only.
13. Ms McDiarmid said that there have been more payments made. Payments have been made in August, September and October for £100 each month. Prior to that payments were made at a lower amount of £50 each month. The arrears are now £5795.
14. Ms McLean said that she got money advice. She has already been in debt and she has been trying to address that. She is able to continue to pay £100 each month. She still wants a TTPD but at £100 per month.
15. Ms Wiper said that she is not able to contribute to repayments. She understands that she is jointly and severally liable but is paying off other joint debts. She has spoken to Step Change. She was given advice to enter into IVA but does not want to do that. She has a wage arrestment for one of the debts taken at the maximum level.

16. Ms McLean accepts that the debt is due and that it is jointly and severally liable. She wants to enter into a TTPD for £100. She said that she can afford to pay that level each month. She accepts that she will be paying this amount on her own. The Tribunal noted that either party can pay towards it but that the minimum agreed amount must be met. The Tribunal referred to its discussion at the previous CMD and detailed in the CMD note. This CMD would be added to the end of the previous CMD note for reference. Ms McDiarmid did not have instructions on the Applicant's view but will seek them prior to any further CMD. Ms McLean will lodge a TTPD for £100 per month. She is aware that this does not mean that it will be accepted. The TTPD will need to be considered by the Applicant. If it is accepted then the Tribunal will deal with matters administratively. Both Respondents remain jointly and severally liable even if only one lodges a TTPD. If it is refused then the Tribunal will consider it the amount offered in the TTPD. The Tribunal can still make an order for the full amount at the next CMD. Ms McLean must be active in obtaining the TTPD to complete and should take it to her money advisers. The case was continued for one further continuation to determine if a TTPD is an appropriate way to proceed.

#### Continued CMD

17. A CMD was held on 18<sup>th</sup> December 2024 at 2pm by teleconferencing. The Applicant was not present but was represented by Ms Lynsay Hughes, Hovepark Lettings. The Respondent were both present. Both Respondent represented themselves independently from each other.
18. Ms Hughes said that the Applicant has somewhat reluctantly accepted the offer of £100 per month. The arrears are now £5595. There have been two payments made since the last CMD for November and December.
19. Ms McLean said that she was willing to continue to pay the arrears at £100 per month by a TTPD. She is content that she can afford to continue the payments. She is aware that she has to make £100 payments each and every month until the debt is due. She can pay more if she wishes but not less than £100 each month. Ms McLean is aware that Ms Wyper has stated that she is not able to make payment to the arrears. She intends to pay the £100 herself.
20. Ms Wyper said that she is not in a financial position to make payment towards this debt. She is addressing joint debts which have accrued that are nearly £6000. This is being deducted by a wage arrestment. At the highest point she has had £375 per month deducted. At that rate she should have addressed the debt in or around 15 months. She is aware that she is jointly and severally liable for the debt.
21. The Tribunal noted the amendment of the TTPD to read £100 per month. It will start on 1<sup>st</sup> February 2025 though payment can continue to be made prior to that point.

### Findings in Fact and Reasons for Decision

22. The parties entered into a Short Assured Tenancy. The Tenancy has ended. Ms Wyler moved out after the Notice to Quit was issued in August 2023. Ms McLean in March 2023.
23. Ms McLean is to pay £100 per month to the arrears. She has done this for several months and has reduced the arrears to £5595. She accepts that Ms Wyper will not be addressing the arrears at this point.
24. All parties were content with the payment of £100 per month to the arrears.
25. The level of the arrears were not in dispute.

### Decision

26. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £5595. This will be paid by instalments of £100 per month. The Order will commence from 1<sup>st</sup> February 2025.

### **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.**

**Gabrielle Miller**

**Legal Member/Chair**

**Date 18<sup>th</sup> December 2024**