



**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/24/3844**

**Re: Property at Flat 3/R, 44 Battlefield Road, Glasgow, G42 9QH (“the Property”)**

**Parties:**

**The Rasul property co, Bellahouston Business Centre, 423 Paisley Road West,  
Glasgow, G511PZ (“the Applicant”)**

**Mr Paul Mearns, Flat 3/R, 44 Battlefield Road, Glasgow, G42 9QH (“the  
Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

At the Hearing, which took place by telephone conference on 5 December 2024, the Applicant was represented by Ms Donnelly of TC Young, Solicitors, Glasgow. The Respondent was also present.

The CMD was also in respect of the related case bearing reference FTS/HPC/EV/24/1774.

**Background**

A CMD had previously taken place on 12 September 2024. That CMD was adjourned to the Hearing to allow disputed issues identified between the parties to be determined by the Tribunal.

Prior to the Hearing the Tribunal received the following additional representations from the parties:-

*For the Applicants:-*

- i. Email dated 14 November 2024 with attachments;
- ii. Emails dated 20 November 2024 with attachments;
- iii. Email dated 26 November 2024; and
- iv. Email dated 2 December 2024.

*For the Respondent:-*

Email dated 29 November 2024 with attachments.

### **The Hearing**

In terms of the Respondent's Written Submissions attached to his email of 29 November 2024 and prepared on his behalf by Govanhill Law Centre, the Tribunal noted that the Respondent accepts there to be a rent arrears balance outstanding and due in a sum of £5,683.48 as at 25 November 2024. He seeks to pay these by means of a Time to Pay Direction at £100 per month.

The Tribunal also noted the Applicant's representative's statement in her email of 2 December 2024 that -

*"In all the circumstances of this case, the Applicant is willing to accept a Payment Order in that sum (£5,683.48) with Time to Pay Direction at the rate of £100 per month. Given the level of the arrears balance and the time it will take for the debt to be cleared, the Applicant will invite the Tribunal to grant interest at the rate of 4% under Rule 41A of the Tribunal Rules."*

At the Hearing in response to questions from the Tribunal the Respondent stated:-

- i. That he had taken further advice and made reference to the rent increase of the Applicant exceeding the rent cap. The Tribunal indicated it was not prepared to hear submissions on a new issue that had not been discussed at the CMD on 12 September 2024 and did not form part of the disputed issues for determination at the Hearing.
- ii. The Respondent accepted rent arrears of £5,683.48 to be due as at 25 November 2024 per his Written Submissions and sought a Time to Pay Direction at the rate of £100 per month.

At the Hearing the Applicant's representative stated:-

- i. The arrears balance was high.
- ii. That it would take around 4.5 years for the admitted arrears to be cleared at £100 per month.
- iii. That, whilst it is accepted there is no interest provision in the Tenancy Agreement now produced by the Respondent, it would be reasonable in the circumstances for interest to be awarded on the debt at 4% per annum particularly given the Applicant does not seek any award of expenses.

### **Reasons for Decision**

The Tribunal noted the Respondent now accepts there to be a rent arrears balance outstanding and due in a sum of £5,683.48 as at 25 November 2024. The Tribunal also noted the Applicant's acceptance of this figure and acceptance of the Respondent's application for a Time to Pay Direction in the sum of £100 per month.

The Tribunal, in the absence of any interest provision in the Tenancy Agreement, did not consider it reasonable to make an award of interest on the arrears balance. The issue of expenses is not relevant to the issue of interest and no motion for an award of expenses was, in any event, made (quite rightly in the Tribunal's view).

The Tribunal therefore:-

- i. Allows the Applicant's claim to be amended in terms of Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 to an increased sum of £5,683.48;
- ii. Thereafter makes a payment order against the Respondent in favour of the Applicant in a sum of £5,683.48;
- iii. Makes a Time to Pay Direction allowing the Respondent to pay the sum of £5,683.48 by instalments of £100 per month; and
- iv. Refuses the Applicant's motion for an award of interest.

### **Decision**

The Tribunal -

- i. Allows the Applicant's claim to be amended in terms of Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 to an increased sum of £5,683.48;
- ii. Thereafter makes a payment order against the Respondent in favour of the Applicant in a sum of £5,683.48; and
- iii. Makes a Time to Pay Direction allowing the Respondent to pay the sum of £5,683.48 by instalments of £100 per month.

### **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.**

Gillian Buchanan

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Legal Member/Chair

5 December 2024

Date