



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2106

Chamber Ref: FTS/HPC/CV/25/0569

Re: Property at 54 Holland Crescent, Cumnock, KA18 1QE ("the Property")

Parties:

Mr Gordon Booth, 3 Lorimer Crescent, Cumnock, KA18 1AJ ("the Applicant")

Mr Ross Findlay, 10 Shankston Crescent, Cumnock, KA18 1HB ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision

At the Case Management Discussion ("CMD"), which took place by telephone conference on 28 August 2025, the Applicant and the Respondent were both personally present.

Background

The Applicant previously leased the Property to the Respondent in terms of a Private Residential Tenancy that commenced on 6 July 2018.

The Respondent vacated the Property leaving rent arrears.

In the application the Applicant seeks an order for payment of rent arrears said to be due by the Respondent in a sum of £6,885 accrued during the period of the tenancy.

Application for a Time to Pay Direction

Prior to the CMD the Respondent submitted to the Tribunal an application for a Time to Pay Direction dated 3 August 2025 in terms of which he admitted the rent arrears sought to be due and offered payment at the rate of £80 per month. The application also referred to the Respondent having signed a Trust Deed.

The Applicant rejected the Respondent's application by an undated written response received by email dated 18 August 2025.

Prior to the CMD the Tribunal had accessed the public Register of Insolvencies on the website of the Accountant in Bankruptcy and noted the Respondent to have signed a Trust Deed on 21 January 2022. Details of the Respondent's Trustee were also noted there.

CMD

Discussions with the Applicant

At the outset of the CMD the Tribunal explained to the Applicant the significance of the Respondent having signed a Trust Deed and that any debt due to the Applicant which preceded the date of the Trust Deed being entered into fell to be pursued as a claim on the estate of the Respondent per the Trustee and intimation of that claim required to be made to the Respondent's Trustee. The Applicant could not pursue such a claim now against the Respondent and the Respondent could not make payment of any debt that preceded the signature of the Trust Deed.

The Tribunal directed the Applicant to the Register of Insolvencies for more information.

On that basis the Applicant and the Respondent both agreed that the debt due by the Respondent to the Applicant for the period from 22 January 2022 onwards amounted to £1,950. At the Respondent's proposed payment rate of £80 per month that debt would take 2 years and one month to be repaid in full which remained unacceptable to the Applicant.

The Applicant referred to the time that had already passed during which the debt remained outstanding, that the Time to Pay application did not disclose income generated by the Respondent from playing in a band and that the Respondent did not own the house in which he lived. He said he did not want to cause the Respondent financial difficulties and that payments need to be sustainable.

Discussions with the Respondent

The Respondent stated as follows under questioning by the Tribunal –

- i. The Trust Deed is ongoing and the monthly payments he presently makes to his Trust Deed (£147) are due for review but are unlikely to change.
- ii. His wages are paid weekly in a sum of £480 which amounts to £2080 per month from his employment as a factory worker.
- iii. He lives with his partner who works 30 hours per week as a Personal Trainer.
- iv. The property in which the Respondent lives is in the sole name of his partner and the mortgage is solely in her name too.
- v. The "Credit and loans" payment of £150 per month is for a credit card in the Respondent's partner's name alone.
- vi. Child maintenance is paid to his ex-wife by mutual agreement. The figure has just risen to £280 per month but the Respondent additionally pays a share of other sums required for the two children, aged 12 and 9 years, such as for the purchase of football boots etc.
- vii. The house insurance of £43 is payable by the Respondent's partner.
- viii. The "Tax" of £290 is a sum due solely by the Respondent's partner.
- ix. The Respondent and his partner simply split all the bills "down the middle".
- x. He plays in a band at weddings and corporate events. He has done this for almost 20 years. The band is not as busy as before and is moving away from weddings which are paid for in advance to corporate events which may not be paid until 6 weeks afterwards. On average the band plays in 4 events each month and the Respondent received £200 for each event.
- xi. The Respondent appreciates and accepts that his instalment proposal of £80 per month is not sufficient.

Discussions with the parties

Having regard to the parties respective positions as outlined and established at the CMD, and allowing for the debt of £1,950 to be paid within a reasonable period, namely 12 months, the Tribunal proposed monthly instalment payments by the Respondent to the Applicant of £162.50.

Both parties agreed to accept that arrangement and were content for an Order for Payment incorporating a Time to Pay Direction to be granted in those terms.

The Tribunal therefore determined that the Respondent requires to pay to the Applicant a sum of £1,950 by monthly instalments of £162.50 and granted and order to that effect.

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

Gillian Buchanan

Legal Member/Chair

28 August 2025

Date