



**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 2016**

Chamber Ref: FTS/HPC/CV/24/3500

**Re: Property at Flat 6 Barncluith Court 25a, Miller Street, Hamilton, ML3 7EW
("the Property")**

Parties:

Mr Jonathan Gilmour, Mrs Judith Maclean, Ms Ruth Gilmour, c/o 11 Shearer Avenue, Ferniegair, ML3 7FX ("the Applicant")

Mr Chidi Peter Oyita, Flat 6 Barncluith Court 25a, Miller Street, Hamilton, ML3 7EW ("the Respondent")

Tribunal Members:

Ruth O'Hare (Legal Member) and Tony Cain (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent is liable to pay the Applicant the sum of Four thousand five hundred and six pounds and twenty five pence (£4506.25) Sterling under the terms of the tenancy agreement between the parties.

The Tribunal therefore made an order for payment in the sum of £4506.25.

Background

- 1 This is an application for a payment order under section 71 of the 2016 Act and Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 ("the Rules"). The Applicants sought an order for payment in the sum of £3586.62. The application was conjoined with an application involving the same parties and the same tenancy under reference FTS/HPC/EV/24/3499.
- 2 The application was referred to a case management discussion ("CMD") to take place by teleconference on 10 April 2025. The Tribunal gave the parties

notification of the CMD in terms of Rule 17(2) of the Rules. The Respondent received notification by sheriff officers on 5 March 2025.

- 3 Both parties were given the opportunity to make written representations in advance of the CMD. The Respondent submitted an application for a time to pay direction, which was received by the Tribunal on 20 March 2025. The Applicants submitted an updated rent statement by email on 1 April 2025, and an objection to the Respondent's application for a time to pay direction by email on 7 April 2025.

The CMD

- 4 The CMD took place by teleconference on 10 April 2025. Mr John Rowan of Miller Beckett Jackson Solicitors represented the Applicants. The Respondent joined the call.
- 5 Mr Rowan referred to the Applicants' objection to the Respondent's application for a time to pay direction. At the rate proposed it would take over nine years to repay the current arrears balance of £4,506.25. It was not a fair, nor practical, proposal in light of the arrears which had caused financial hardship to the Applicants. The Respondent had been unresponsive to multiple attempts by the Applicant's agent to discuss a realistic repayment plan. The Respondent had resumed paying rent but had made no attempt to reduce the arrears. Allowing such a long term repayment plan would place an unreasonable burden on the Applicants.
- 6 Mr Rowan confirmed that an order was sought in the increased sum of £4506.25. The Tribunal noted that no application to amend the sum claimed had been made by the Applicants in accordance with Rule 14A of the Rules. Accordingly, the Tribunal advised that they would be restricted to the sum sought in the application if the Tribunal were to make a payment order at the CMD.
- 7 The Respondent disputed that he had not engaged with the Applicant's letting agent. He explained that he had communicated with them by telephone and by email. They had refused his offers of repayment. He intended to increase his payments once his financial situation improved. He pointed out that the rent had been consistently paid since he began receiving benefits in August 2024, which demonstrated his capability notwithstanding his current situation.
- 8 Having heard from the parties the Tribunal decided that it would be appropriate to adjourn the CMD. The Tribunal noted that a hearing had been fixed for the conjoined application, and it may be that evidence heard during that hearing would be of relevance to the Tribunal's determination of the application for a time to pay direction. An adjournment would also provide the Applicants with the opportunity to formally amend the sum claimed if they wished to do so.
- 9 Following the CMD the Tribunal issued a Direction requiring parties to submit additional documentary evidence and details of witnesses in advance of the

hearing. On 22 September 2025 the Tribunal received documents from the Respondent. The documents contained potentially sensitive personal information. In accordance with standard procedure, the Tribunal contacted the Respondent to ask if he wished to submit redacted versions of the documents. On 30 September 2025 the Tribunal received redacted versions of the documents from the Respondent. It was noted, however, that not all personal information had been redacted. On 30 September 2025 the Tribunal received an inventory of productions from the Applicant which included an updated rent statement in support of their request for amendment of the sum claimed.

- 10 The hearing was scheduled for 1 October 2025 at Brandon Gate, Hamilton. Due to the late lodging of representations by both parties the Tribunal determined to adjourn the hearing as neither the Tribunal member, nor the parties, had been given the opportunity to fully consider the representations.

The hearing

- 11 The hearing took place on 10 December 2025 by teleconference. The Applicants were again represented by Mr Rowan. The Respondent joined the call.
- 12 The Tribunal had the following documents before it:-
 - (i) Form F application form dated 31 July 2024 and paper apart;
 - (ii) Excerpt from the online landlord register confirming the Applicants' landlord registration;
 - (iii) Title sheet LAN101772;
 - (iv) Private residential tenancy agreement dated 12 December 2019;
 - (v) Email from the Applicants' letting agent to the Respondent confirming change of landlord;
 - (vi) Rent statement;
 - (vii) Rent increase notice dated 7 April 2023;
 - (viii) Copy correspondence from the Applicants' letting agent to the Respondent in compliance with the rent arrears pre-action protocol;
 - (ix) The Applicant's written representations dated 30 September 2025 which included an updated rent statement and email correspondence between YourMove and the Respondent;
 - (x) The Respondent's written representations dated 30 September 2025 which included bank statements, screenshots from the Department of Work and Pensions website, email correspondence between YourMove and the Applicant and Form DS01 strike off application; and
 - (xi) The Applicant's further written representations dated 26 November 2025 which included an updated rent statement.
- 13 The Tribunal heard oral evidence from both parties. Mr Rowan explained that the Applicants did not intend on giving evidence but he would make submissions on their behalf. The following is a summary of the key elements of the evidence relevant to the Tribunal's determination of the time to pay application.

- 14 Mr Rowan advised that the Applicants sought a payment order in the amended sum of £4506.25. The Applicants were entitled to recover payment of the rent due. The offer of £40 per month would take over nine years to clear the debt which was wholly unreasonable. The rent arrears had been outstanding for nearly two years at this point. The Applicants were financially worse off. Mr Rowan explained that the Applicant's letting agent, YourMove, had proposed a rent increase however the Applicants had decided not to proceed with the increase at this time due to the arrears situation, in the hope that there may have been some efforts to repay the arrears.
- 15 The Respondent spoke to the circumstances that had led to the cessation of rent payments. Before the coronavirus pandemic he was self employed with his own company. The pandemic had impacted upon his business plan, affecting his earning ability. He had to rely upon savings. He tried other investments which were unsuccessful. He had no income coming in. He was in touch with YourMove asking for support. They had stated they were not in a position to help him. He had tried to keep to his financial commitments but had been unable to do so. It took him some time to realise he could obtain support from the local authority. He had applied to universal credit and was now in receipt of payments. He had applied for discretionary housing payments but had been refused. He is now meeting his ongoing rental payments. The only difference is the balance of arrears. He is committed to drastically reducing the arrears as soon as he can get back into paid employment. He is actively seeking employment but has so far been unsuccessful. The only options so far have been zero hours contracts which he cannot commit to due to the uncertainty. He can offer £40 per month to the arrears at present. He confirmed that he had previously invested in training courses to improve his employment prospects and cryptocurrency. This was before the arrears began to accrue. It depleted his last source of funds. He reiterated that he would increase his payment offer as soon as his financial position improves.

Findings in fact

- 16 The Applicants are the owners and landlords, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement.
- 17 The rent under the terms of the tenancy agreement is £643.75 per month.
- 18 Between 13 February 2024 and 13 August 2024 the Respondent did not pay the contractual rent, resulting in rent arrears of £4506.25.
- 19 The Respondent was previously self-employed. The Respondent's company was struck off the companies register following difficulties arising from the coronavirus pandemic.
- 20 The Respondent is currently in receipt of universal credit. The Respondent is seeking paid employment.
- 21 The Respondent can offer £40 per month towards the arrears at this time.

Reasons for decision

- 22 The Tribunal carefully considered all of the oral and documentary evidence before it, and the submissions from the parties in reaching a decision on the Respondent's application for a time to pay direction.
- 23 The Tribunal has sympathy for the Respondent in respect of the deterioration in his financial position over recent years. The Tribunal notes his commitment to regain paid employment and increase his income in order to repay the arrears.
- 24 However, the Tribunal must consider the circumstances as they exist at this time. The Respondent has proposed payments of £40 per month. The Tribunal appreciates that this is the maximum he can afford at present due to being in receipt of universal credit. Nevertheless the Tribunal must balance the interests of both parties in this case. At a rate of £40 per month it would take over nine years to repay the arrears which the Tribunal considers unreasonable. Whilst the Respondent's financial situation may improve in future, this cannot be guaranteed and the Applicants are entitled to recover the debt due. The Tribunal has accordingly determined to refuse the Respondent's application for a time to pay direction.
- 25 The Tribunal therefore determined to make an order for payment in the increased sum of £4506.25, having been satisfied that the Applicants had complied with Rule 14A of the Rules in terms of their request for amendment.
- 26 The decision of the Tribunal was unanimous.

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.

Ruth O'Hara

15 January 2026

Legal Member/Chair

Date

