



**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/19/0915

Re: Property at 26 Pinewood Court, Inverness, IV2 6GZ (“the Property”)

Parties:

**Mr Michael Mackie, Mrs Jacqueline Mackie, 26 Muirefield Station, Gullane,
EH31 2NY; 26 Muirfield Station, Gullane, EH31 2NY (“the Applicants”)**

**Ms Catriona Campbell, 26 Pinewood Court, Inverness, IV2 6GZ (“the
Respondent”)**

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment should be granted in favour of
the Applicants. A time to pay direction was made allowing the Respondent to
make instalments in the sum of £120 per month.**

Background

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”). By
application dated 21st March 2019, the Applicants sought an order for payment in the
sum of £2,900 in respect of unpaid rent.

The Tribunal had before it the following documents:

- (i) Short Assured Tenancy agreement between the parties dated 12th April 2017
- (ii) Scotlis Title Information for INV20722
- (iii) Bank statements indicating rental payments made by the Respondent
- (iv) Rent account
- (v) Letter dated 18th April 2017 from the representative for the Applicants to the Respondent showing account balance

- (vi) Application for a Time to Pay direction by the Respondent dated 10th May 2019
- (vii) Response to Time to Pay Direction Application by the Applicants dated 17th May 2019.

A Case Management Discussion (“CMD”) took place on 8th May at the Spectrum Centre, 1 Margaret Street, Inverness. At the CMD, the representative for the Applicants said that the sum outstanding was now £2750. The Respondent admitted that the sum was due. The Respondent had not been provided with a Time to Pay Direction application. The CMD was adjourned to 20th May 2019 to allow the Respondent time to lodge a Time to Pay Direction application.

The Time to Pay Direction application was lodged with the Tribunal, dated 10th May 2019. The Respondent proposed a sum of £50 per month.

Case Management Discussion

A further CMD took place on 20th May 2019 at the Spectrum Centre, 1 Margaret Street, Inverness. Neither party was in attendance. The Applicants were represented by Ms Alice Cochrane. The Tribunal was satisfied that the Respondent had received notification of the CMD as this had been provided to her personally in writing at the last CMD. The Tribunal was satisfied that the case could be heard in the Respondent’s absence in terms of Rule 29.

Ms Cochrane lodged a response to the Time to Pay Direction application.

Ms Cochrane said that the Respondent had been evicted from the Property on 17th May 2019. The sum outstanding in rent arrears was now £2,852.74. Ms Cochrane said that the Time to Pay Direction was not opposed, but the sum proposed was not sufficient to clear the debt within two years.

Findings in Fact

- (i) The parties entered into a Short Assured Tenancy on 13th April 2017.
- (ii) The Respondent was evicted from the Property on 17th May 2019.
- (iii) The rent was £625 per month.
- (iv) Rent lawfully due to the Applicants in the sum of £2,852.74 was not paid by the Respondent.
- (v) The Applicants are entitled to recover the unpaid rent.

Reasons for Decision

The Tribunal granted the order as rent lawfully due to the Applicants had not been paid by the Respondent. The Respondent accepted the rent was outstanding. The Tribunal was satisfied that it was reasonable in all the circumstances to grant a time to pay direction, having had regard to the nature and reason for the debt, the action taken by the Applicants to assist the Respondent in paying the debt, the Respondent’s financial position, the reasonableness of the Respondent’s proposal, and the Applicants’ objection to the proposal. The Tribunal noted that, although the

income section of the form had not been fully completed by the Respondent, there was reference to income from two jobs, namely £1,360 per month from employment at a hotel, and a further wage from a job with variable hours. The Respondent's outgoings amounted to £1,245 per month. The proposal by the Respondent to pay at instalments of £50 per month was not a reasonable proposal, as it would take in excess of four years to pay the outstanding sum. Instalments in the sum of £120 per month would see the debt cleared in two years.

Decision

The Tribunal granted an order against the Respondent for payment in the sum of £2,852.74 to the Applicants. The Tribunal also made a time to pay direction allowing payment to be made by instalments of £120 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.

H.Forbes

Legal Member/Chair

Date

20th May 2019