



**Section 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/19/2419**

**Re: Property at Flat 2, 233 High Street, Elgin, IV30 1DJ (“the Property”)**

**Parties:**

**JGB Property, Park House Business Centre, South Street, Elgin, IV30 1JB (“the Applicant”)**

**Mr Adam Wood, Mrs Margaret Wood, Flat 2, 233 High Street, Elgin, IV30 1DJ (“the Respondent”)**

**Tribunal Members:**

**Petra Hennig-McFatridge (Legal Member)**

**Decision**

**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 Applicant. A time to pay direction was made allowing the Respondents to make payment of the principal sum of £1,090 by instalments in the sum of £50 per month.**

**Procedural Background:**

The Applicant is seeking an order for payment of rent arrears for the property. An application in terms of Rule 111 of the Rules of Procedure was lodged on 2 August 2019 and the sum outstanding stated as £1,295.00 rent arrears arising from a Private Residential Tenancy Agreement between the parties commencing on 17 April 2018.

At the CMD the Applicant’s representatives Michelle Rourke and Coralie Pickering and both Respondents attended.

Both parties had been advised that a decision can be made at a CMD.

### **The Case Management Discussion:**

Both parties attended. Ms Rourke distributed an up to date rent statement which showed that the outstanding arrears as at the date of the CMD were £1,090. Both Respondents agreed to the application being allowed to be amended to that sum. The Respondents confirmed that the rent arrears were outstanding as per the new rent statement but that the date of the last payment of £700 was on 2 September 2019 and not on 2 August 2019 as shown on the statement. They indicated they wished to pay off the arrears as quickly as possible and the legal member raised the option of a Time to Pay Direction with the Respondents. An adjournment was granted for them to complete the application. The entries were then discussed and clarified at the CMD. Mr Wood explained that he had recently obtained a qualification and was in the process of developing a career as a Snooker coach. He was expecting his monthly income to increase, which would allow the Respondents to make increased payments as funds became available. However, he had currently no fixed specific income from this activity. The Application was then submitted and agreed by the Applicant's representatives.

Both parties agree that the sum currently owed in rent arrears from the tenancy is £1,090. Both parties agreed that the Respondents should set up a separate direct debit to ensure that the payments for the Time to Pay Direction could be easily traced and would be separate from the monthly payments towards the current rent. It was agreed that the first payment would have to be made at the latest on 28 October 2019.

Both parties were content for a decision to be made as there were no other outstanding matters and the facts of the case were not disputed.

### **Findings in Fact:**

- 1. The Applicants and the Respondents entered into a Private Residential Tenancy agreement commencing on 17 April 2018**
- 2. The monthly rent for the property is £495 payable in advance on the 17<sup>th</sup> day of each month.**
- 3. As per the calculation in the updated rent statement the arrears of rent as at 26 September 2019 is £1,090.**
- 4. The parties are agreed that this should be paid in instalments of £50 per month.**
- 5. Although Mr Wood currently has no fixed income apart from the ESA payments the Respondents are certain that his new activity will bring in sufficient funds for them to afford payments at the rate of £50 per month.**
- 6. At this rate payment of the full sum will take less than 2 years.**

### **Reasons for the Decision:**

The Tribunal make the decision on the basis of the written evidence lodged by both parties and the evidence of the parties at the CMD.

The facts in the case are not disputed.

The rent outstanding as of the date of the CMD based on the amounts paid as per the rent statement is £1,090. There was no defence to the action. It is not in dispute that arrears were due by the Respondents to the Applicant.

The Respondents lodged a time to pay application at the CMD which was agreed by the Applicant.

The Applicant is entitled to payment of the sum of £1,090.

The Tribunal grants the order as rent lawfully due to the Applicant by the Respondent had not been paid.

The Respondents now seek to clear the debt accumulated.

The Tribunal was satisfied that it was reasonable in all the circumstances to grant a time to pay direction, having regard to the nature and reason of the debt, the action taken by the Applicant to assist the Respondent in paying the debt, the Respondents' financial position, the reasonableness of the Respondents' proposal and the Applicant's agreement to the proposal.

From the information on the application for time to pay direction the Tribunal is satisfied that the payment rate proposed is realistic and the debt would be cleared within less than 2 years.

### **Decision**

**The Tribunal grants an order against the Respondent for payment of the sum of £1,090 to the Applicant. The Tribunal also makes a time to pay direction allowing payment to be made by instalments of £50 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.**

P.Hennig-McFatrige

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Legal Member/Chair

26.8.19  
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Date