



**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/19/2649

Re: Property at 49 Glen Road, Deans, Livingston, EH54 8DH (“the Property”)

Parties:

Mr Andrew Gray, 69 Columbia Avenue, Livingston, EH54 6PR (“the Applicant”)

**Miss Mariola Gniewek, Mr Grzegorz Gniewek, 49 Glen Road, Deans, Livingston,
EH54 8DH (“the Respondent”)**

Tribunal Members:

Anne Mathie (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment for rent arrears in the sum of £2474 be granted

- **Background**

This Rule 111 application (conjoined with FTS/HPC/EV/19/2648 Rule 109 Case) was received by the Tribunal on 23 August 2019. Along with the application the Applicant’s representative lodged a rent statement and requested payment of the rent arrears. The arrears sum showing on the rent statement at the time was £2010. The application was accepted and set down for a Case Management Discussion today. The Respondents lodged a Time to Pay application which was opposed by the Applicant on their Response to a time to pay application form on a number of grounds including the fact that payments were offered at the rate of £50 per month which would have taken in the region of four years to pay the debt and also that there was no start date given for the instalments other than when the second Respondent started work which there was no date given for. In addition the Applicant’s representative pointed out that the statement of income and expenditure provided by the Respondents showed that they were living beyond their means every month and it was doubtful they had any money at all each month to pay towards rent arrears. The Tribunal did not have a copy of the

tenancy agreement and had emailed the Applicant's representative in advance of the Case Management Discussion requesting that a copy be brought along to the hearing today. Both Respondents attended at the Case Management Discussion today but had their young child with them. They were asked to have one of them addressing the Tribunal while the other Respondent stayed in the waiting room to look after the child. If necessary the Tribunal could adjourn to allow the Respondents to swap places.

- The Case Management Discussion

At the Case Management Discussion today the Applicant was in attendance with his representative, Gillian Whannel from Romano 434 Limited. Grzegorz Gniewek attended with his interpreter, Aggie Tymicz. The Tribunal was advised that rent arrears currently stood at £2774 and an up-to-date rent statement was provided in this regard. The Tribunal was asked to amend the rent arrears figure. In terms of Chamber Rule 14A and , with the agreement of the Respondent, the Tribunal amended the figure sought. Discussion took place of the time to pay application and the Applicant's response. A copy of the Applicant's response to the time to pay application was provided to the Respondent. The Respondent advised the Tribunal that he may be able to pay more than £50 per month. The Tribunal adjourned to consider the terms of the tenancy agreement, the time to pay application and response and the up-to-date rent statement in light of the further submissions made. On reconvening, the Respondent advised that the up-to-date rent arrears figure was wrong and should be £300 less as he had made a payment of £300 that hadn't been taken into account. After discussion it was agreed that the true rent arrears figure was in fact £2474.

- Findings in Fact

The Respondents are due to pay rent in the sum of £782 per calendar month by virtue of a tenancy agreement with the Applicant dated 5 December 2018.

The Respondents, due a change in circumstances, have accrued rent arrears in the sum of £2474.

The time to pay application lodged by the Respondents shows a deficit between their income and expenditure every month. The Respondents are hopeful that Mariola Gniewek will be in a position to return to paid employment at some point but she is currently on maternity leave and has not been able to secure such employment.

- Reasons for Decision

The Tribunal has considered all the papers before it, including the ones lodged today and has taken into account the submissions of all parties. The Respondents being due to pay the Applicant the sum of £782 per calendar month for rent and having fallen into arrears are due to pay the Applicant in respect of those rent arrears. The application is unsuitable for a time to pay application due to the Respondents not having the ability to pay any instalments.

- Decision

An Order is granted against the Respondent in favour of the Applicant in the sum of £2474 in respect of rent arrears

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.

Anne Mathie

Legal Member/Chair

25 October 2019

Date