

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/0006

Re: Property at Flat 1/2, 23 Binnie Street, Gourock, PA19 1JT (“the Property”)

Parties:

Mr Dario Antonino Cacioppo, 7 Gleneagles Drive, Gourock, PA19 1HX (“the Applicant”)

Mr Andrew Smith, 23 Binnie Street, Gourock, PA19 1JT (“the Respondent”)

Tribunal Members:

Eleanor Mannion (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order be made in the sum of £4,335 plus interest at 8% thereon and subject to a Time to Pay Direction in the terms discussed and agreed at the Case Management Discussion.

This was a continued Case Management Discussion from the 1st April 2019, which was continued on that date to allow the Applicant to provide a detailed breakdown of the rent, which was claimed to be due and owing and also to allow the Respondent to make an application for a Time to Pay direction.

The Applicant was in attendance as was the Respondent.

At the outset of the hearing, the Applicant provided a written breakdown of the rent arrears claimed. He stated that when completing this, he became aware of additional rental payments which were not made and was now seeking an order in the sum of £4,335.00 plus 8% interest. The Respondent did not dispute this amount and accepted it as the amount of rent due and owing.

The Respondent advised that following the previous Case Management Discussion, he attempted to make a Time to Pay application but received the wrong form from the Tribunal Administration Office. He still wished to make that application as at

today's date. In the interests of the overriding objective, the Tribunal agreed that the provisions of the application would be discussed at the Case Management Discussion, albeit the form had not been formally completed.

The parties advised that they had discussed the outstanding rent and have come to an agreement which they wished to put to the Tribunal. They advised that the Respondent will continue to pay the monthly rent of £495, as well as an additional payment of £105 per month as against the arrears until the outstanding debt is paid. This will be paid on the 10th of each month, starting on 10th May 2019. In addition, every third month, the Respondent will pay an additional £300 against the arrears, beginning at the end of July 2019 and continuing until the outstanding debt is paid.

The Respondent's financial circumstances were discussed in terms of the reasonableness of this proposal and his ability to pay. He fell into financial difficulty as a result of work issues and other debts that had accrued. He and his wife had a baby and while she was on maternity leave, she was not receiving her full wage. He accepted that the Applicant has been very understanding. He advised that he is in full time employment and as part of his job, he has the opportunity to receive a quarterly bonus. His wife will be returning to work from her maternity leave in the coming weeks, albeit on a part time basis.

The time within which the debt will be paid was discussed also. With the additional £300 being paid every three months, the outstanding debt will be paid within 2 years. The Respondent confirmed that he was agreeable to this proposed plan and understands that the Applicant is currently struggling and that this is a fair proposal.

An Order for Payment for £4,335 plus interest of 8% plus a Time to Pay Direction was made by the Tribunal on the above terms.

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.

E Mannion

Legal Member

29 - 4 - 19

Date