



**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/19/2907**

**Re: Property at 33 High Street, Newburgh, KY14 6AH (“the Property”)**

**Parties:**

**Miss Suzanne Black, The Studio, Braeside of Lindores, Newburgh, KY14 6HJ  
 (“the Applicant”)**

**Mr Steven Clark, 33 Windsor Place, Conon Bridge, IV7 8BX (“the Respondent”)**

**Tribunal Members:**

**Lesley Johnston (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment in the sum of £692 and determined that a Time to Pay Direction under section 1(1) of the Debtors (Scotland) Act 1987 should be granted.**

**Background**

By lease dated 6 and 8 April 2016 the Applicant (the Landlord) and the Respondent (the Tenant) entered into an assured tenancy in respect of the property at 33 High Street, Newburgh, Fife (‘the property’).

By application dated 12 September 2019 the Applicant made an application for an Order for Payment in the sum of £692 comprising rent arrears due in respect of the property.

The application complied with the requirements of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (‘the rules’).

## The Case Management Discussion

A Case Management Discussion took place on 27 November 2019 at 2pm at Fife Volunteer Action, Kirkcaldy.

The Applicant was in attendance and unrepresented.

The Respondent was neither in attendance nor represented.

The application and notice of the hearing was served on the Respondent by Sheriff Officers on 23 October 2019 by depositing it in the hands of the Respondent's partner at his address who confirmed that the Respondent resided there. The Tribunal was therefore satisfied that the Respondent was given notice of the hearing in terms of rule 24(1) and therefore exercised its discretion to allow the Case Management Discussion to proceed in his absence in terms of rule 29.

While the Respondent was not present or represented at the hearing, the Respondent submitted an application for a Time to Pay Direction prior to the hearing. In doing so, the Respondent admitted the claim (expressly acknowledging that admission on the application for a Time to Pay Direction).

Due to an administrative oversight, the application for the Time to Pay Direction was not issued to the Applicant or the Tribunal until shortly prior to the hearing. However, the Applicant advised that she had considered the application, discussed it with her Letting Agent and was content to proceed with the hearing.

### The Time to Pay Direction

In his application, the Respondent requested that he be allowed to pay the debt in instalments of £30 per week. He set out that he was in full-time employment, earning £420 per week (£1,680 per month). He detailed monthly outgoings in the sum of £1,560 comprising mortgage/rent; council tax; utilities; food; credit and loans; phone; maintenance/childcare costs and travel costs. In terms of dependants living with him, he noted a spouse/partner and four children under the age of 18 years.

No other assets were noted. A debt of "over £10,000" was noted.

The Respondent detailed that he got into the debt because he was out of work and that he would like the time to pay direction to be granted to resolve the matter and pay the debt. He submitted that the application was reasonable because it was what he could afford to pay.

The Applicant advised the Tribunal that she did not object to the application.

The Applicant advised that the Respondent moved out of the property in around July 2019 to pursue employment elsewhere. He had previously served a notice to quit in February on the basis of rent arrears. He had asked the Applicant at that time, if he could cancel the notice to quit and remain in the property, all on the condition that he pay off the arrears at that time (of around £300). The Applicant agreed to that



request, however, after around a month and a half of paying the rent on time, the Respondent again fell into arrears. It was at that point that the Respondent served another notice to quit. The Respondent left the property in July leaving rent arrears of £692, being the full sum claimed in the application before the Tribunal.

The Applicant advised that her Letting Agents had demanded payment of rent in writing prior to the application being made to the Tribunal, however, no payments had been received from the Respondent.

### **Decision**

By submitting the Time to Pay Direction application the Respondent admitted the claim.

The only matter for the Tribunal to consider was therefore whether or not to grant the Time to Pay Direction application.

In doing so, the Tribunal is required to consider whether it is reasonable in the circumstances to do so, having particular regard to:

1. The nature and reasons for the debt in relation to which the order is sought;
2. Any action taken by the creditor to assist the debtor in paying the debt;
3. The debtor's financial position;
4. The reasonableness of any proposal by the debtor to pay that debt
5. The reasonableness of any refusal or objection by the creditor to any proposal or offer by the debtor to pay the debt

(see Debtor (Scotland) Act 1987, section 1).

The Tribunal is satisfied that the Respondent fell into arrears on the basis of being out of work. He moved out of the property in order to obtain work elsewhere and having done so, is now employed full-time earning £1,680 per month. The Applicant has previously provided the Respondent with an opportunity to clear the arrears, having allowed him to stay in the property on the basis he cleared the arrears in around February. Although the Respondent made some payments to the rent account between February and July, he left the property with £692 outstanding. The Applicant's Letting Agents had demanded payment of the arrears prior to making the application to the Tribunal.

The Tribunal is satisfied that the Respondent's financial position has changed and that he has the ability, based on the finances disclosed in the application, to make instalment payments to clear the arrears of £692 at the rate of £30 per week. The Tribunal takes into account that on the basis of those payments, the arrears will be cleared in just under 6 months. The Tribunal considers that to be a reasonable period. The Tribunal also takes into account that the Applicant accepts the proposal put forward by the Respondent and does not object to the application.

In all the circumstances of the case, the Tribunal considers that it is reasonable to grant the application for the Time to Pay Direction.

## 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.

Lesley Johnston  
Legal Member/Chair

27 / 11 / 19  
Date