

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/19/0833

**Re: Property at 20 Glen Crescent, Deans, Livingston, West Lothian, EH54 8BW
("the Property")**

Parties:

**Mrs Catherine Burton, 1 Karries Court, Denny, Stirlingshire, FK6 5JB ("the
Applicant")**

**Mr John Gordon Nevin, Ms Samantha Helen Nevin, 12 Deans South,
Livingston, West Lothian, EH54 8DP ("the Respondents")**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the application should be granted without a hearing
and made an Order for Payment by the Respondents to the Applicant of the
sum of £1,500. The Tribunal refused the Application for a Time to Pay
Direction.**

Background

By application, received by the Tribunal on 14 March 2019, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondents to the Applicant, the sum sought being £1,500.

The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Parties commencing on 27 February 2014 at a rent of £600 per month, with provision for a deposit of £600, and a statement of rent from 27 February 2014 to 27 July 2014 showing arrears at the latter date of £1,500. The Applicant also provided the Tribunal with a copy of a document dated 27 August 2014, in which the Respondents had agreed to pay off the debt at £50 per month. In her application, the Applicant stated that no payments had been made following that agreement and she was not prepared to accept payment by instalments of less than £100 per month.

By letter dated 21 May 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondents were invited to make written representations by 11 June 2019.

On 22 May 2019, the Respondent, Mrs Nevin, e-mailed the Applicant, admitting the debt, but asking for agreement to a payment plan. She stated that the outstanding debt had slipped her mind.

On 19 June 2019, the Tribunal received an Application for a Time to Pay Direction from the Respondent, Mrs Nevin, offering to pay the debt at the rate of £50 per month. On 21 June 2019, the Applicant responded that the calculations of income and outgoings in the Application for a Time to Pay Direction made no reference to the financial position of the Respondent, Mr Nevin.

Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the morning of 24 June 2019. The Applicant was present, but the Respondents were not present or represented.

The Legal Member of the Tribunal advised the Applicant that, as the Respondents admitted the debt, an Order for Payment would be made and heard from the Applicant in relation to the Application for a Time to Pay Direction. The Applicant pointed out that there was no detail given about the financial position of the Respondent, Mr Nevin, and that the previous arrangement for payment, dating back to 2014 had not been honoured by the Respondents. She also commented that the deposit had never been paid and that she was not convinced by the statement by the Respondent, Mrs Nevin, that the liability to pay the £1,500 had slipped her mind. Accordingly, she was not prepared to accept an offer of payment by instalments at this late stage.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would decide the application without a hearing.

The Respondents had admitted that the sum sought was due.

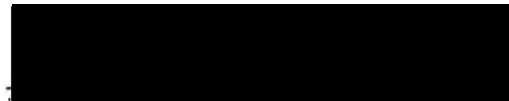
The Tribunal considered the Application for a Time to Pay Direction and the evidence given by the Applicant in response to it. The Tribunal noted that the previous agreement to pay by instalments had not been honoured by the Respondents, who had allowed very substantial arrears of rent to accumulate during the currency of a lease that had lasted only six months. The arrears had commenced in the second month of the lease and in total only £2,100 had been paid against the total rent for the period of £3,600. In addition, the Respondents had not paid the deposit of £600 provided for in the lease. Against this background and the fact that the Respondents had not contacted the Applicant in the intervening period from 2014 to the date of their receipt of the application, the Tribunal was not satisfied of the likelihood that a Time to Pay Order would be honoured by the Respondents.

Decision

The Tribunal determined that the application should be granted without a hearing and made an Order for Payment by the Respondents to the Applicant of the sum of £1,500. The Tribunal refused the Application for a 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.



Legal Member/Chair

24 June 2019

Date