



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 71 private Housing  
(Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/21/0319**

**Re: Property at 2/1 39 Banchory Avenue, Glasgow, G43 1EY (“the Property”)**

**Parties:**

**Andrew Hendry, 93 Stoneside Drive, Eastwood, Glasgow, G43 1JE (“the Applicant”)**

**James Travers, Ms Michelle Massey, 2/1 39 Banchory Avenue, Glasgow, G43 1EY (“the Respondents”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)  
Frances Wood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the sum of £3450.00 should be granted against the Respondents in favour of the Applicant.**

**Background**

1. By application received between 11 February and 17 March 2021, the Applicant seeks a payment order in relation to arrears of rent. Documents lodged in support of the application include a copy tenancy agreement and rent statement.
2. A copy of the application and supporting documents were served on the Respondents. A case management discussion (“CMD”) was arranged. Prior to the CMD taking place the Respondents lodged a joint application for a time to pay direction. They offered to pay the debt at the rate of £350 per month. The Applicant lodged a response to this confirming that he opposed the application

for time to pay. The parties were advised that the CMD would be cancelled and that a hearing would take place on 22 June 2021 at 10am, by telephone conference call. Prior to the hearing the Applicant lodged an updated rent statement showing a balance due of £3450.

3. The hearing took place by telephone conference call on 22 June 2021 at 10am. The Applicant was represented by Mrs Buchanan, solicitor. The Respondents did not participate. At 10.09 Ms Massey sent an email to the Tribunal to advise that she was having problems with her phone and could not join the conference call. The Tribunal adjourned the hearing to allow further enquiries to be made. At 10.25 Ms Massey sent a further email which stated that she was happy for the hearing to proceed in her absence and for the order to be granted. She made reference to the time to pay application which had been submitted. The hearing resumed at 10.30 am and the Tribunal confirmed that it would proceed in the absence of the Respondents.

## **The Hearing**

4. Mrs Buchanan referred the Tribunal to the updated rent statement. She confirmed that the Landlord is now receiving direct payments from the DWP for the Respondents' housing costs and that these payments cover the whole rent charge. Payments were received on 14 May and 14 June 2021. The current sum due on the rent account is £3450 and the Applicant wished to amend the application to reflect this figure. Mrs Buchanan confirmed that a payment order is sought for this sum. The Tribunal granted the amendment request.
5. The Tribunal proceeded to consider the application for time to pay. The application form indicates that the Respondents have combined monthly income of £2310 which comprises universal credit, ESA, carers allowance and PIP. This figure appears to include the housing costs element of universal credit as this was not paid direct to the Applicant until 14 May 2021, and the application is dated 20 April 2021. The application states that the Respondents have one dependent child and lists household outgoings of £1210. The form refers to other debts (council tax and former tenant arrears) although the total sum due is not specified and the impact on monthly outgoings is not yet known.
6. Mrs Buchanan referred the Tribunal to her written opposition to the time to pay application and advised that it is opposed for the following reasons: -
  - (a) The Respondents have a history of renting a property, failing to pay rent, and then moving on.
  - (b) The Respondents have made several repayment arrangements and have not adhered to any of them. Only the deposit and first month's rent were paid before the account went into arrears. The only subsequent payments have been made by the DWP.

- (c) The Respondents have not been honest in the information provided in the application as it states that the rent charge is one of their outgoings, although they have not paid their rent.
  - (d) The Tribunal must take into account the interests of the creditor who has had no income from the property for a substantial period of time, with financial consequences.
7. Mrs Buchanan advised the Tribunal that the application for a time to pay direction should be refused. Alternatively, the direction should be for a higher monthly instalment which would allow the debt to be repaid over three months since the application indicates that there is monthly disposable income of £1210.

### **Findings in Fact**

- 8. The Applicant is the owner and landlord of the property.
- 9. The Respondents are the tenants of the property in terms of a private residential tenancy agreement.
- 10. In terms of the tenancy agreement, the Respondents are due to pay rent at the rate of £575 per month.
- 11. The Respondents owe the sum of £3450 in unpaid rent to the Applicant.

### **Reasons for Decision**

- 12. The Tribunal noted that the Respondents do not dispute the arrears of rent and do not oppose the granting of a payment order. The Tribunal is therefore satisfied that a payment order for £3450 should be granted.
- 13. The Tribunal proceeded to consider the application for time to pay and the opposition to it. The Tribunal noted that the current rent payments are now being paid by way of direct payments from Universal Credit and, while this continues, the arrears will not increase. The Respondents have offered to pay at the rate of £350 per month. If adhered to, this would allow the total sum due to be repaid within 10 months. As the Respondents did not participate in the hearing it was not possible for the Tribunal to seek clarification of any of the information provided in the application form. However, the Tribunal did note that the family income is derived entirely from state benefits and that these include carers allowance and PIP. The Tribunal was not persuaded that it would be reasonable to grant a time to pay application for the whole of the apparent disposable income, particularly since the Respondents were not present to

comment on this and had stipulated the sum of £350 in their application.

14. Having considered all the circumstances, the Tribunal is satisfied that the offer of £350 per month is reasonable, having regard to the sum which is owed, the length of time it will take to repay the debt and the personal circumstances of the Respondents, as outlined in the application for time to pay. The Tribunal therefore determines that the application for a time to pay direction should be granted.

## **Decision**

15. The Tribunal determines that a payment order should be granted against the Respondents for the sum of £3450 to be paid at the rate of £350 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.**

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**Josephine Bonnar, Legal Member**

**22 June 2021**