

**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 71 of the Private Housing  
(Tenancies)(Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/18/0546**

**Re: Property at 46 Magdala Terrace, Galashiels, Scottish Borders, TD1 2HS  
("the Property")**

**Parties:**

**Mr Andrew Gilbert-Straw, 4 Mount Lodge Place, Edinburgh, EH15 2AB ("the  
Applicant")**

**Mr Graham Waddell, 46 Magdala Terrace, Galashiels, Scottish Borders, TD1  
2HS ("the Respondent")**

**Tribunal Members:**

**David Preston (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that the Respondent pay to the Applicant the sum of  
ONE THOUSAND FOUR HUNDRED AND FORTY POUNDS (£1440).**

- **Background**

By application dated 25 February 2018 the Applicant applied to the First-tier Tribunal under Rule 70. The application was accompanied by: a copy of the tenancy agreement dated 10 December 2016; copy Bank Statements; copy Deposit Protection Certificate; and copy AT5 Notice.

- **The Case Management Discussion**

Both the Applicant and the Respondent appeared personally at the Case Management Discussion.

The Respondent advised that he had vacated the property in March 2018. The Respondent accepted that he was due to pay the arrears of rent due to the Applicant as outlined in the application form. The arrears of rent as outlined in the application amounted to three months at £360 per month totalling £1080. The Applicant said that no rent had been paid since January and that an additional

month's rent due on 10 March 2018 was therefore also outstanding. The Respondent agreed that the sum due to the Applicant was, at the date of the case management discussion, £1440.

The Respondent advised that he was not in a position financially to pay such a sum but offered to make payments of £20 per week. He advised that he was employed as a tractor driver and earned approximately £250 per week. He had commitments to Child Maintenance of £50 - £100 per week as well as a fine of £130 which he was currently paying in instalments of £20 per week.

The Applicant indicated that he was willing to accept payment by reasonable instalments and said that he would accept payment at the rate of £20 per week, so long as they were maintained. He said that there had been an agreement made previously but payments had not been maintained.

- Findings in Fact

1. The tenancy between the parties was a Short Assured Tenancy constituted by Agreement dated 10 December 2016.
2. The Respondent is in arrears of rent in the total sum of £1440 as at the date of the case management discussion. Although the arrears amounted to £1080 as at the date of the application, the Respondent accepted that he was also due to make payment of an additional month's rent due until he vacated the property.
3. The Respondent offered to pay the total arrears by instalments of £20 per week which the Applicant was prepared to accept.
4. There being no provision for making an order for payment by instalments to clear the arrears, the tribunal determined to grant an order for the full sum. The Applicant agreed to enforce the order in the event that payment of the agreed sum was not maintained by the tenant

### **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.**

D Preston

..... Chairman

17 May 2018