



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/CV/22/4484**

**Re: Property at 106 Ascot Court, Glasgow, Lanarkshire, G12 0BA (“the Property”)**

**Parties:**

**Ms Sheeba Precilla Dayalini Royal Thomas, 170 Wythenshaw Road, Northern Moor, Manchester, M23 0PF (“the Applicant”)**

**Mr David Thomson, 0/3 51 Banner Road, Glasgow, G13 2HL (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By lease dated on or around 10<sup>th</sup> May 2021 the Applicant let the Property to the Respondent. The lease was signed electronically but was undated. The start date of the lease, however, was 10<sup>th</sup> May 2021;
2. The rent payable was £695.00 per calendar month;
3. The Respondent vacated the premises on 2<sup>nd</sup> September 2022. As at that date there were rent arrears amounting to £4,623.53. A tenancy deposit of £795.00 had been made. This was returned to the Applicant by the tenancy deposit scheme reducing the outstanding arrears to £3,828.53;

4. The Applicant presented an application to the Tribunal seeking a payment order in that amount;
5. In advance of the Case Management Discussion the Respondent lodged a time to pay application requesting time to pay at the rate of £100.00 per month;
6. A Case Management Discussion was held by teleconference at 10am on 28<sup>th</sup> April 2023. The Applicant did not participate in the Case Management Discussion. The Respondent did participate personally;
7. The Tribunal made efforts to contact the Applicant to enquire as to whether she intended to participate in the Case Management Discussion. Those attempts to contact her were not successful;
8. In the circumstances, given that the Applicant had not participated in the Case Management Discussion and there was no motion before the Tribunal to grant an order for payment, the Tribunal dismissed the application;
9. Shortly thereafter, it was drawn to the attention of the legal member of the Tribunal that the Applicant had, indeed, previously responded to the time to pay application. The Applicant had emailed the Tribunal on 21<sup>st</sup> April 2023 intimating that she was willing to accept the offer of £100.00 per month but advising that no form had been forwarded to her to enable her to complete it to confirm her acceptance. The Tribunal forwarded an acceptance form to her which was then duly completed and returned to the Tribunal by email at 17:16 hours on 27<sup>th</sup> April 2023. Unfortunately, this email exchange had not been provided to the legal member prior to the Case Management Discussion being convened;
10. While the Applicant did participate in the Case Management Discussion and although the Tribunal made a decision to dismiss the application, the Respondent had, in fact, informed the Tribunal that he did not dispute the level of rent arrears and confirmed that he had, indeed, submitted a time to pay request. The Respondent was advised by the Tribunal that, although the application was being dismissed, it would be open to the Applicant to seek a recall or review of the decision or to seek permission to appeal. The Respondent was advised that, even if neither of those options were followed by the Applicant, a further application could, in due course, be presented to the Tribunal;
11. Having regard to the email exchange drawn to the attention of the legal member following the decision of the Tribunal, and having regard to the form of acceptance of the offer of time to pay, taken together with the acceptance by the Respondent of the amount claimed, the Tribunal, in terms of Rule 39 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, and considering it to be in the interest of justice to do so, reviewed its earlier decision to dismiss the application and, thereafter, made a further decision to grant an order for payment in the sum of £3,828.53 with a time to pay direction being made, allowing payment by the Respondent at the rate of £100 per month.

## **DECISION**

The Tribunal granted an order against the Respondent for payment of the sum of THREE THOUSAND EIGHT HUNDRED AND TWENTY EIGHT POUNDS AND FIFTY THREE PENCE (£3,828.53) STERLING to the Applicant

The Tribunal made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, that the Respondent make payment at the rate of £100.00 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.**

Virgil Crawford

**28 April 2023**

**Legal Member/Chair**

**Date**