



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 1(1) of the Debtors (Scotland)
Act 1987.**

Chamber Ref: FTS/HPC/PR/20/1722

Re: Property at 5b Elmbank Street, Bellshill, ML4 2EA (“the Property”)

Parties:

Mrs Angela Hillen, Fairways, Drumpellier Avenue, Coatbridge, ML5 1RX (“the Applicant”)

Miss Danielle Andrew, 34 Maclean Drive, Bellshill, Lanarkshire, ML4 2ST (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Elizabeth Currie (Ordinary Member)

Attendance

The Applicant was represented by her partner, Charles McDermott

The Respondent was present along with her husband, Brian Hillen.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, in the following terms:

The respondent is required to pay the sum of £60 per month until the full amount has been paid. The first payment must be made no later than 4 days after intimation of this Order.

Background

This Hearing was fixed in terms of under Section 1(1) of the Debtors (Scotland) Act 1987 and concerned an application by the Applicant for a Time to Pay Order. The Tribunal had previously granted an Order against the Applicant to pay to the Respondent the sum of £1090.32. The Applicant sought time to pay that sum by instalments of £50 per month. The Applicant had lodged the relevant application and supporting documentation. The Respondent opposed the Application and the Tribunal fixed a Hearing to determine same.

Hearing

The Tribunal heard from both parties in terms of the Application.

For the Applicant

Mr McDermott for the Applicant set out his submissions that the proposal to make payment of £50 monthly was reasonable given the family circumstances. He confirmed the benefit income of £995 was as a family unit and the payments listed were family payments and liabilities. He gave details on the expenditure. He said there had recently been council tax arrears not entered into the Application they were now paying. He told the Tribunal that the family paid for utilities through a card system and he was unaware what the tariff for this was.

The Respondent

The Respondent considered that the phone costs and virgin media costs were excessive and she considered further that money could be saved. She submitted that the amount for toiletries seemed excessive whilst the family had entered on the Application only £150 for food.

Reasons for the Decisions and Findings in Fact

The Tribunal had regard to the overriding objective of the Tribunal and the relevant factors when determining an application in particular the circumstances of the parties, the reasonableness of the proposal and the evidence heard from the parties. In considering the Application the Tribunal noted that the Application as drafted would mean the Payment order would take 21.5 months to pay off. The Tribunal also noted that the Applicant and her partner were on limited benefit income and on a card tariff system for utilities. The Respondent submitted that the contractual payments for the mobile telephone/internet were high but the Tribunal noted some evidence of same being a contract cost had been lodged by the Applicant. She also submitted the utility costs were in her view high. Taking in account all of the circumstances of the case the Tribunal found that in terms of the relevant factors and the overriding objective a Time to Pay Direction was appropriate but that a reasonable amount for payment based on the evidence was in their discretion £60 per month. The first payment should be made within 4 days of the Applicant receiving notice of the Tribunal's order paperwork. This direction would allow the sum to be settled within 18 months.

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.

Karen Kirk

Karen Kirk

Legal Member/Chair

30 March 2021

Date