

**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/21/0211**

**Re: Property at 53 Inshes Crescent, Inverness, IV2 3SP (“the Property”)**

**Parties:**

**Innes Maree Bungalows Limited, Innes Maree Bungalows Limited, 7 Appin Drive, Stratton, Inverness, IV2 7AL (“the Applicant”)**

**Dr Agata Drywa, 53 Inshes Crescent, Inverness, IV2 3SP (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £4740 with interest thereon at the rate of 3% above the Bank of England base rate.**

**Background**

1. This is an application received in the period between 29<sup>th</sup> January and 16<sup>th</sup> February 2021 for an order for payment under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicant was seeking an order for payment in the sum of £3310 in respect of rent arrears, with interest thereon. The Applicant’s representative lodged a copy of a tenancy agreement between the parties in respect of the Property that commenced on 11<sup>th</sup> September 2019, together with a rent statement.
2. By email dated 15<sup>th</sup> March 2021, the Applicant’s representative made an application to amend the sum sought to £4150.
3. A Case Management Discussion (“CMD”) took place by telephone conference on 6<sup>th</sup> April 2021. Following discussions and a proposal for payment by instalments of £250 per week by the Respondent, the CMD was continued to a

further CMD to allow the Respondent to submit a Time to Pay Direction application, showing her full income and expenditure. The Respondent was told to take into account the fact that her monthly rental of £840 is due for payment, so any proposed instalments should not include the rental payment. The application was to be submitted to the Tribunal by 16<sup>th</sup> April 2021.

4. By email dated 15<sup>th</sup> April 2021, Ms Smith lodged an application to amend the sum sought to £4740.
5. By email dated 29<sup>th</sup> April 2021, the Respondent submitted a Time to Pay Direction application stating that she wished to pay by instalments of £300 per week. The income and expenditure details in the form showed zero income and monthly outgoings of £1247.

### **Case Management Discussion**

6. A Case Management Discussion (“CMD”) took place by telephone conference on 30<sup>th</sup> April 2021. The Applicant was not in attendance and was represented by Ms Victoria Smith. The Respondent was in attendance.
7. Ms Smith said that the Applicant was willing to accept the proposal if the Respondent confirmed that the monthly rent would also be paid.
8. The Respondent agreed that the sum contained in the application for amendment of £4740 was outstanding. She said she would pay the monthly rent plus the proposed instalment amount. When questioned by the Tribunal regarding the lack of income details on her application form, the Respondent said, as noted in her form, that she does not have an income at present. There will be a job coming up with her former employer in May 2021. She does not have a formal offer of employment but said there is a very high chance that she will get this job. In the meantime, her partner will ensure that the rent and weekly instalments are paid.
9. Ms Smith said the Respondent’s partner is not a tenant and is not authorised to reside at the Property. No details of his income and expenditure have been provided.

### **Findings in Fact**

10.
  - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 11<sup>th</sup> September 2019 with an agreed rent of £840 per month.
  - ii. Rent lawfully due in terms of the tenancy was not paid by the Respondent.
  - iii. The Applicant is entitled to recover rent lawfully due.

## **Reasons for Decision**

11. In reaching its decision, the Tribunal took into account the fact that the debt was admitted by the Respondent. In considering whether or not to grant a Time to Pay Direction, the Tribunal took into account the fact that the Respondent has no income at this time, no offer of employment, and monthly outgoings of £1247. The Tribunal was not persuaded that it would be reasonable to grant time to pay to a debtor that has no income, and no guaranteed prospect of having such income in the near future.

## **Decision**

12. An order for payment is granted in favour of the Applicant in the sum of £4740 with interest thereon at the rate of 3% per annum above the Bank of England base rate running from the date of the decision to grant the order until payment.

## **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.**

# H. Forbes

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Legal Member/Chair

30<sup>th</sup> April 2021  
Date