



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 71(1) of the Private Housing  
(Tenancies) (Scotland) Act 2016.**

**Chamber Ref: FTS/HPC/CV/21/0831**

**Re: Property at 33 Thornhill Road, Hamilton, ML3 9PS (“the Property”)**

**Parties:**

**Mr Martyn Anstey, 46 Cedars Road, Exeter, Devon, EX2 4NA (“the Applicant”)**

**Miss Laura McDonald, 33 Thornhill Road, Hamilton, ML3 9PS (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Tony Cain (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondent for £1200.**

**Present**

Heather Lawrie, Letting Agent, First Stop Properties Ltd, 37 Cadzow street, Hamilton, ML3 6EE attended for the Applicant.

The Respondent was not in attendance and the Tribunal waited for her attendance without success.

**Background**

This Hearing was fixed in terms of Rule 24 of the Procedure Rules and concerned an Application under Rule 111 of the Procedure Rules for Civil Proceedings in relation to a Private Residential Tenancy in terms of Section 71 of the Housing (Scotland) Act 2016. The Hearing took place by teleconference due to the covid-19 pandemic. The purpose of the Hearing being to allow parties to present their evidence in the case, make representations and cross examine.

This case had previously called before the Tribunal as a Case Management Discussion. The Legal Member had issued a Direction to the Respondent to provide further detail to her Time to Pay application that she had lodged in respect to this Application. The Tribunal also noted that the Applicant would lodge an up to date rent statement. There was no further information from the Respondent nor compliance with the direction. There was no up to date rent statement but the Applicant's representative set out they were seeking an order for £1200 as per the application.

### **The Hearing**

The Applicant's representative set out that the rent arrears for the property remained at £1200. She said that there had been one rent payment since the case last called but that another rent payment due had returned the sum sought to £1200.

The Applicant's representative said that the Respondent had not been able to adhere to a previous Time to Pay application in respect to previous rent arrears and the Applicant remained opposed to the current Time to Pay application on the basis she considered same was not achievable or realistic for the Respondent. However the Applicant's representative said that the Respondent had been making payments at a new agreed level and that the Applicant would intend to keep working with the Respondent and were due to review matters.

The Respondent she said was making some payments to a previous sum and has 3 school age children.

### **Findings in Fact**

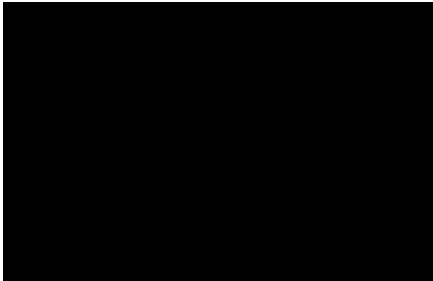
1. The Applicant sought a Payment Order for £1200 by Application dated 6<sup>th</sup> April 2021.
2. The Respondent entered into a Private Residential Tenancy for the property at 35 Thornhill Road, ML3 9PS on 5<sup>th</sup> April 2020.
3. The monthly rent due in terms of the said Tenancy is £400 per month.
4. The Respondent lodged a Time to Pay Application admitting liability for the sum due in arrears for rent at the property was £1200 but sought Time to Pay.
5. The Time to Pay Application sought to make payment of £100 per fortnight.
6. The Time to Pay Application was opposed.
7. The Time to Pay application was sparse. An earlier Tribunal granted a Direction on 26<sup>th</sup> May 2021 to the Respondent to provide full details of her income and outgoings. The said Direction was not complied with by the Respondent and she did not attend the Hearing.
8. The Tribunal was unable to determine the Time to Pay application in the absence of full information and the Respondent had been given another opportunity to provide that to the Tribunal but had not.

## **Reasons for the Decision**

The Tribunal heard evidence from the Applicant's representative and considered that it was reasonable and appropriate to grant a Payment Order for £1200 and to refuse the Time to Pay Application due to a lack of information. The Tribunal was unable to exercise its discretion fairly and reasonably having regard to the overriding objective of the Tribunal in the absence of the Respondent being present or complying with the earlier direction issued by the Tribunal. The sum sought was not in dispute and the Tribunal therefore granted a Payment Order.

## **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.**



**08/07/2021**

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**Legal Member/Chair**

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**Date**