

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)  
Act 2014**

**Chamber Ref: FTS/HPC/CV/21/2356**

**Re: Property at 42 Outend, Isle of Scalpay, HS4 3YG (“the Property”)**

**Parties:**

**Ms Jane Roberts, 42 Outend, Scalpay, Isle of Harris, HS4 3YG (“the Applicant”)**

**Miss Samantha Martin and Mr Philip Hodgson, 6 Cnos An Bhlairst, Gravr, Isle  
Of Lewis, HS2 9QU (“the Respondents”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member)**

**Decision**

On 13 January 2022 a Case Management Discussion (“CMD”) took place by telephone conference. The Applicant was not in attendance but was represented by Mr Napier, Jackson Boyd, Solicitors, Glasgow. The Respondents were not present but were represented by Ms Montgomery of Lewis Citizens Advice Bureau.

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

**Background**

- The Applicant is the heritable proprietor of the Property.
- The Respondents were the tenants of the Property in terms of a Private Residential Tenancy Agreement (“the PRT”) under the Private Housing (Tenancies)(Scotland) Act 2016.
- The PRT began on 30 May 2020.
- In terms of the PRT the rent payable by the Respondents was agreed to be £450 per calendar month payable in advance on the last day of each month.
- The Respondents vacated the Property on 18 April 2021.

- As at the date of the Respondents vacating the Property rent arrears were outstanding and due in a sum of £1,770.
- The Respondents do not dispute the rent arrears payable.
- The Respondents had applied to the tribunal for a Time to Pay Direction under Section 1(1) of the Debtors (Scotland) Act 1987 in a sum of £50 per month.
- The Applicant opposed the Time to Pay Direction and counter-proposed an instalment arrangement of £100 per month.

### **Preliminary Matter**

At the outset of the CMD the tribunal raised with the Applicant's representative a preliminary matter. The tribunal noted the application to be in the joint names of the Applicant and her husband, Mr Graham Roberts. The tribunal also noted the PRT to be in the sole name of Mr Graham Roberts.

The Applicant's representative accepted that as the heritable proprietor of the Property only the Applicant could be the Respondents' landlord. The Applicant's representative also accepted that, in the absence of any other arrangement between the parties, Mr Graham Roberts was acting as the Applicant's agent in entering into the PRT with the Respondents. Accordingly, on the Applicant has title to pursue payment of the rent arrears due.

The Applicant's representative invited the tribunal to remove the name of Mr Graham Roberts from the application and the tribunal allowed the application to be amended to that effect.

### **The Case Management Discussion**

#### **Submissions for Applicant**

The Applicant's representative made the following submissions:-

- That there is no deposit available to the Applicant to offset against the rent arrears accrued. The deposit cheque previously tendered by the Respondents "bounced" and the Applicant offered to waive the deposit to allow the Respondents to pay heating costs as they were financially struggling at that time.
- That the Respondents had made no effort to pay anything towards the rent arrears despite both respondents having been in employment until 7 January 2022.
- That the Respondents financial position should be sufficient within 3 months at least to enable them to pay monthly instalments of £100.

#### **Submissions for the Respondents**

The Respondents' representative made the following submissions:-

- That until 7 January 2022 the Second Respondent worked in a local bakery. At that time he was receiving a basic wage. He is trying to find new employment and opportunities might be available at local fish factories or a new yard that is opening.
- The First Respondent works 16 hours per week doing cleaning work. She has been in her current employment for over a year. Paragraph 4.d.1 of the Time to Pay application reflected the First Applicant's wages alone.

- The Second Applicant has applied for Universal Credit. These payments will cover rent and will be backdated. Tax credits will cease when Universal Credit payments are made.
- The Respondents also receive Child Benefit.
- The childcare costs at paragraph 6.e.7 of the Time to Pay application are for the Respondents' younger child. When the Second Respondent finds work childcare will be needed and the Respondents do not want to lose that childcare arrangement.
- The First Respondent previously had the opportunity for additional relief work to supplement the Respondents' earnings but due to COVID19 these opportunities have dried up meantime.
- The Respondents can only afford £50 per month but will pay more to the arrears once they are on a better financial footing.

### **Reasons for Decision**

The arrears are not in dispute. The Respondents offer to pay them by instalments of £50 per month. At that rate the arrears would take 3 years to clear which is unacceptably long. The Applicant counter-proposes instalments of £100 per month.

Having regard to all the circumstances and balancing the interests of the Applicant in receiving the sums due to her within a reasonable period of time and the ability of the Respondents to make payment, the tribunal determined that the Respondents should pay £50 per month for a period of 4 months which will allow the Universal Credit application to be processed and the Second Respondent, hopefully, to find work. After a period of 4 months the instalment payments require to increase to £100 per month.

### **Decision**

The tribunal makes an order for payment by the Respondents to the Applicants of £1,770, payable by 4 monthly instalments of £50 and thereafter by monthly instalments of £100 until the entire sum due is paid in full.

### **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.**

**Gillian Buchanan**

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**Legal Member/Chair**

**13 January 2022**  
**Date**