



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing
(Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/21/2561

Re: Property at 20 Ben Venue Way, Paisley, PA2 7NT (“the Property”)

Parties:

Mrs Jacqueline Ogilvie, 24 Partickbank Wynd, Elderslie, PA5 9US (“the Applicant”)

Mr Billy Wilson, 10E Rowans Gate, Paisley, PA2 6RD (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it would grant an order for payment for the sum of FOUR THOUSAND SEVEN HUNDRED AND FORTY FOUR POUNDS (£4,744.88) STERLING together with a time to pay direction of £100 per month.

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment for £4744.88 to the Applicant.
2. The application contained:-

- a copy of the tenancy agreement, and
 - rent statement
3. The Applicant's representative from Castle Residential appeared on behalf of the Applicant. The Respondent did not appear at today's case management discussion. Notice of the case management discussion had been served on the Respondent by sheriff officers (and further the Respondent had submitted a time to pay direction admitting the debt). I was satisfied that there had been service of the application on the Respondent and I was prepared to proceed with today's discussion in his absence.

Discussion

4. As noted the Respondent had submitted a time to pay application admitting the debt and offering to repay the sum at £100 per month. He had set out his outgoings and income. He also explained how the debt had come about. His explanation and detail of his financial situation looked reasonable. I had no information to lead me to conclude that this information was not correct.
5. The repayment offer in the time to pay application had not been accepted by the Applicant. She had provided her written response to the offer. She explained that she did not wish to accept it as it would take over 4 years to repay; that it was in effect an interest free loan; and that she had own financial outgoings to meet for the property and therefore could not afford to accept the repayment proposal. She suggested that an alternative re-payment arrangement of £138.89 per month would be acceptable with the debt being paid in 3 years.
6. I asked for the case management discussion to call today, to find out if Respondent was able to afford this increased monthly repayment arrangement. The Respondent did not however appear.
7. The Applicant's agent advised that the current outstanding rent arrears were still outstanding there had been no payments to reduce the arrears. She also

advised that they had given the Respondent advice previously about the Tenant Hardship Loan and other places to seek support. She advised that her advice appeared to have fallen on deaf ears. She advised that the landlord required repayment of the rent arrears in order to pay for some common improvement works.

Findings in Fact

8. The Tribunal found the following facts to be established:
 - a. A tenancy agreement was entered into between the Applicant and the Respondent for the property and had existed between the parties.
 - b. The tenancy agreement provided for rent to be paid by the Respondent.
 - c. There were rent arrears amounting to £4,744.88 due by the Respondent.
 - d. The Respondent had admitted the debt in full.
 - e. It appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

Reasons for Decision

9. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from assured tenancies. As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this case.
10. There had been a response from the Respondent admitting the debt and making a time to pay direction application. He had set out his income and outgoings; he advised that he was self-employed as a car valet; the arrears had only arisen due to covid; and he appeared to have little spare income from the figures he had provided. The offer did not therefore appear unreasonable.

11. The Applicant was not unreasonably concerned that the arrears would take over 4 years to repay, and she advised she had her own financial obligations to meet. Again, I think that she had acted reasonably, she was prepared to accept a repayment arrangement, but had suggested an increased monthly repayment proposal, thereby having the debt repaid in 3 years.
12. I am going to grant the Respondent's application, while I accept the position as set out by the Applicant, I do not consider, on the basis of the information provided, that the Respondent is likely to be able to meet the increased payment proposal. It would appear to me to be more appropriate to grant the Respondent's application, as I think that he is more likely to be able to adhere to it; if he does not do so, then the Applicant will be able to enforce an open decree. I do not see much point in imposing a repayment order which he is unlikely to be able to meet.
13. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued and a time to pay direction of £100 per month.

Decision

14. I grant an order in favour of the Applicant for sum of FOUR THOUSAND SEVEN HUNDRED AND FORTY FOUR POUNDS (£4,744.88) STERLING together with a time to pay direction of £100 per month against the Respondent.

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.

M Barbour

9 June 2022

Legal Member/Chair

Date