



**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/22/0585**

**Re: Property at 63/6 Marchmont Road, Edinburgh, EH9 1HT (“the Property”)**

**Parties:**

**Ms Emma Clark, 63/6 Marchmont Road, Edinburgh, EH9 1HT (“the Applicant”)**

**Mr David Lennox, 5 St Margarets Place, Edinburgh, EH9 1AY (“the Respondent”)**

**Tribunal Members:**

**Alastair Houston (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £5386.08 be made in favour of the Applicant with a time to pay direction also being made directing payment to be made in instalments of £2693.04 per month with the first payment to be made by 30 November 2022.**

**1. Background**

- 1.1 This was an application for payment of rent that had gone unpaid during a private residential tenancy agreement between the parties. The application was accompanied by copies of the written tenancy agreement and a statement detailing the sums due.
- 1.2 Following the application being made, the Respondent had made an application for a time to pay direction. On 5 October 2022, the Applicant lodged a response to the application, objecting to it. Subsequently, the Respondent lodged an application for a postponement of the Case Management Discussion to allow him to take legal advice and then sent a further email offering to pay the sum sought in two instalments by the end of the year.

## **2. The Case Management Discussion**

2.1 The Case Management Discussion took place on 6 October 2022 by teleconference. The Applicant was represented by Mr Henderson, letting agent. The Respondent attended personally.

2.2 Mr Henderson confirmed that the amount sought, following retention of the deposit, was £5386.08. He had had no prior notification of the new proposal by the Respondent to make payment of the outstanding sum in two instalments by the end of the year.

2.3 The Respondent confirmed he no longer insisted on his postponement request. He accepted that the sum sought by the Applicant was due. He was in employment enabling him to make payment of the outstanding sums at the end of November and December and wished a time to pay direction made in those terms. Effectively, he sought to amend the proposal reflected in his written application. Mr Henderson conceded that the updated proposal was likely reasonable, albeit he did not have authority to consent to it.

## **3. Reasons for Decision**

3.1 The order for payment sought by the Applicant was not disputed by the Respondent. The only issue was whether a time to pay direction within the meaning of Section 1(1) of the Debtor (Scotland) Act 1987 (“the 1987 Act”) should be made as per the updated proposal put forward by the Respondent.

3.2 The Tribunal had regard to the factors specified in Section 1(1A) of the 1987 Act. In particular, the Tribunal placed weight on the reasonableness of updated proposal in that the full sum owed to the Applicant would be paid within 3 months. Accordingly, the Tribunal determined that a time to pay direction ought to be made.

## **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.**

A Houston

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Legal Member/Chair

6 October 2022  
Date