



**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/22/2799

Re: Property at No 1 Denend Cottages, Udney, AB41 6RU (“the Property”)

Parties:

**Mr Robin David Smith, Mrs Alyson Smith, Tillymaud, Udney, Ellon, Aberdeen,
AB41 6RX; Tillymaud, Udney, Ellon, AB41 6RX (“the Applicant”)**

**Mr Christopher Sim, Mrs Jane Sim, 41 Chapelpark Road, Oldmeldrum,
Inverurie, AB15 0RL; 41 Chapelpark Road, Oldmeldrum, Inverurie, AB15 0RL
 (“the Respondent”)**

Tribunal Members:

Alison Kelly (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment in the amount of £2650 should
be made.**

Background

The case called for a Case Management Discussion (“CMD”) on 23rd January 2023. The sum claimed by way of rent arrears was £2950. The Respondent had been making payments of £50 per month on a regular basis. The Respondent confirmed that a standing order was in place for that amount.

Both parties wished to try to resolve the matter. The Tribunal continued the case to another Case Management Discussion, with the Respondent to lodge a Time To Pay application within 7 days. The Respondent would thereafter lodge a response. If the offer was accepted there would be no need for another CMD. If it was not accepted a decision could be made at the CMD.

The Tribunal issued a Direction to the parties to the effect that the Respondents were to lodge a Time To pay Application with the tribunal within 7 days of the CMD, the

Tribunal would then send it to the Applicants with a Response form for completion and the respondents would return it to the Tribunal duly completed.

The Respondents did not lodge the Time To Pay Application with the Tribunal.

Case Management Discussion

The continued Case Management Discussion (“CMD”) took place by teleconference. The Applicants represented themselves. The Respondents did not dial in.

The Chairperson confirmed the purposes of a CMD in terms of Rule 17 of the Rules.

An email from the Respondents was received while the CMD was in progress advising that they could not dial in as they were both working, their circumstances had changed and they would need a new Time To Pay application to complete.

The Applicants confirmed that several more payments of £50 had been received from the respondents and the sum now outstanding was £2650. They were not prepared to accept a payment order at £50 per month as it would take nearly five years for the debt to be paid.

The Chairperson considered the overriding objective of the Tribunal in terms of Rule 2, which is to deal with proceedings justly, which includes avoiding delay. The Chairperson also took into consideration the terms of a very detailed CMD Note from the first CMD, and the precise terms of the Direction. and noted that the Respondents had not complied. In those circumstances the Chairperson was content to grant a payment order for the sum outstanding, with no instalment amount.

Findings in Fact

1. The parties entered in to a tenancy agreement for rent of the property which had come to an end;
2. As at today’s date the rent arrears due are £2650;
3. The Respondents have not complied with the Tribunal’s direction.

Reasons for Decision

The Respondents owes rent to the Applicants in the amount of £2650.

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. Kelly

**Alison Kelly
Legal Member/Chair**

**6 April 2023
Date**