

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

**Chamber Ref: FTS/HPC/CV/22/2909**

**Re: Property at 1 Mill of Balmaud Cottage, King Edward, AB45 3PN (“the Property”)**

**Parties:**

**W & G Strachan, W & G Strachan, Mill of Balmaud, King Edward, AB45 3PN (“the Applicant”)**

**Mr David Fowlie, Miss Megan Bowles, 7 Whinhill Terrace, Banff, AB45 1ET; 1A Kingswell Lane, Banff, AB45 1DX (“the Respondent”)**

**Tribunal Member:**

**Ms H Forbes (Legal Member)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £8,418. The Tribunal made a time to pay direction with instalments due in the sum of £100 per month.**

**Background**

1. By application received in the period between 17<sup>th</sup> August and 8<sup>th</sup> November 2022 and made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £8,518 in respect of unpaid rent. The Applicant’s representative lodged a rent statement, and a private residential tenancy agreement that commenced on 1<sup>st</sup> April 2021, and ended in or around November 2022.
2. A Case Management Discussion (“CMD”) took place by telephone conference on 13<sup>th</sup> February 2023. The Respondents were in attendance. There was no attendance on behalf of the Applicant. The Respondents indicated that the debt was not disputed, and said they wished to submit an application for a time to pay direction (“TTPD”). The CMD was continued to a further CMD to allow attendance by the Applicant or their representative, and to allow the Respondents to submit and application for a TTPD.

3. On 3<sup>rd</sup> March 2023, an application for a TTPD was received by the Housing and Property Chamber, and circulated to the Applicant's representative.
4. By email dated 9<sup>th</sup> March 2023, the Applicant's representative indicated that the proposal was accepted, noting that only one Respondent, Ms Bowles, had completed the application with details of her income and expenditure.

### **The Case Management Discussion**

5. A CMD took place by telephone conference on 13<sup>th</sup> March 2023. The Applicant was not in attendance and was represented by Mr Neil McLeod. The Respondents were in attendance.
6. Responding to questions from the Tribunal as to why only Ms Bowles' income and expenditure had been inserted into the application form, Mr Fowlie said he lost his job in December 2022 and has only discovered today that he is eligible for Job Seekers Allowance in the sum of £300 per month. He has no other income. He will assist Ms Bowles in paying the sum as and when he can.
7. Mr McLeod said the Applicant was keen to resolve matters and would accept the proposal made. He stated that two payments of £50 each had been made in December 2022 and January 2023, and the outstanding balance was £8m418.

### **Findings in Fact and Law**

8.
  - (i) Parties entered into a private residential tenancy that commenced on 1<sup>st</sup> April 2021 with rent due in the sum of £725 per month.
  - (ii) The tenancy ended in or around November 2022.
  - (iii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondents.
  - (iv) The Applicant is entitled to recover rent lawfully due.
  - (v) It is reasonable to make a time to pay direction with payment in the sum of £100 per month.

### **Reasons for Decision**

9. The Respondents have failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.
10. In considering the reasonableness of the TTPD application, the Tribunal took into account the matters set out in Section 1(1A) of the Debtors (Scotland) Act

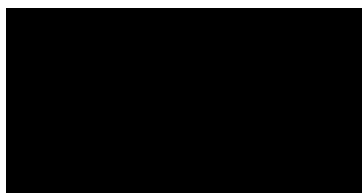
1987. The Tribunal considered the nature of and reasons for the debt, which were stated as Ms Bowles losing her job and not receiving any assistance from Universal Credit to pay the rent. The Tribunal considered the action taken by the Applicant to assist the Respondents in paying the debt, which included setting up a payment plan in the sum of £100 per month. The plan was not adhered to by the Respondents. The Tribunal considered the Respondents' financial position and noted Ms Bowles' income and expenditure as included in the application. It appeared that she could afford to pay the sum of £100 per month. The Tribunal took account of Mr Fowlie's low income at present. In all the circumstances, the Tribunal considered that it was reasonable to grant the TTPD.

## **Decision**

11. An order for payment is granted in favour of the Applicant in the sum of £8,418. The Tribunal made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, whereby the Respondents are required to pay the sum of £100 per month until the full amount has been paid. The first payment must be made no later than 14 days after intimation of the order for payment.

## **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.**



**Legal Member/Chair**

**13<sup>th</sup> March 2023**  
**Date**