



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/22/3970

Re: Property at 19F Ivanhoe Terrace, Hawick, TD9 8EE (“the Property”)

Parties:

Mr Nigel Furness, 11 Jubilee Park, Peebles, Scottish Borders, EH54 9BF (“the Applicant”)

Ms Juilie-Ann Tindill, 19B Ivanhoe Terrace, Hawick, TD9 8EE (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £1299.73.

Background

1. By application dated 5 October 2022 the Applicant’s representatives, Lowrie Property, Hawick, applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representatives submitted a copy of the tenancy agreement together with a rent statement in support of the application.
2. By Notice of Acceptance dated 21 November 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 23 March 2023.
4. By correspondence dated 6 April 2023 the Respondent admitted the debt and submitted an application for a Time to Pay Direction in terms of the Debtors (Scotland) Act 1987 offering to repay the debt at the rate of £10.00 per month.

The Case Management Discussion

5. A CMD was held by teleconference on 28 April 2023. The Applicant did not attend but was represented by Ms Julia Grierson from the Applicant's representatives. The Respondent did not attend nor was she represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in her absence.
6. Ms Grierson explained that she had only received the Respondent's application for a Time to Pay direction on 24 April and had not had time to submit a written response however the Applicant's position was that the instalments offered were insufficient as it would take over 10 years to repay the debt and this was too long. She said the Applicant would have considered accepting monthly instalments that would have cleared the debt in less than five years. Miss Grierson also submitted that the amount stated by the Respondent as expenditure for food at £350.00 per month was excessive and that it seemed likely therefore that she could afford to increase the monthly payments to £25.00.
7. The Tribunal noted the Applicant's position but pointed out that in the absence of the Respondent it would be difficult for the Tribunal to impose a Time to Pay Direction at an amount greater than that previously offered by the Respondent. Ms Grierson submitted that if that was the case the application for a Time to Pay direction should be refused and the order simply granted in the sum of £1299.73.

Findings in Fact

8. The parties entered into a Short Assured Tenancy that commenced on 2 June 2017.
9. The Respondent accrued rent arrears amounting to £1299.73.

Reasons for Decision

10. The Tribunal was satisfied from the written representations and documents submitted by the Applicant's representatives together with the oral submissions that the Applicant was entitled to an order for payment by the

Respondent in the sum of £1299.73. The Respondent in her correspondence also admitted that the debt was due by her.

11. The Tribunal considered the application for a Time to Pay direction submitted by the Respondent and although it accepted that the Respondent's income was limited and therefore the amount she could afford to repay each month was not substantial the Tribunal agreed with the Applicant's position that it would be inappropriate to make a Time to Pay Direction that would result in the debt not being cleared for over ten years and therefore refused the application and granted the order for payment in the sum of £1299.73.

Decision

12. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £1299.73.

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.

**Graham Harding
Legal Member/Chair**

**28 April 2023
Date**