



**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/21/2660**

**Re: 48 McGurk Way, Bellshill, ML4 3PJ (“the Property”)**

**Parties:**

**Northwood (Central Lowlands) Limited, 9-11 Bank Street, Falkirk FK1 1NB (“the Applicant”)**

**Mrs Jacqueline McGrouther, 48 McGurk Way, Bellshill ML4 3PJ (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

**Decision**

**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 in the sum of £5926.00. The order was granted subject to a Time to Pay Direction.**

**Background**

1. By application dated 27 October 2021 the Applicant 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 submitted a copy of the tenancy agreement, email correspondence between the parties and a copy of the rent ledger in support of the application.
2. By Notice of Acceptance dated 14 December 2021 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 sent to the Applicant by post and was served on the Respondent by Sheriff Officers on 10 January 2022.

4. By email dated 13 January 2022 the Applicant sought to increase the sum claimed to £6626.00.
5. By email dated 27 January 2022 the Respondent submitted written representations together with an application for a Time to Pay direction admitting the claim and offering to make payment of the normal monthly rent together with an additional payment of £500.00 per month.
6. By email dated 9 February 2022 the Applicant submitted an up-to-date rent statement showing the rent due as at 8 February to be £5926.00.

### **The Case Management Discussion**

7. A CMD was held by teleconference on 10 February 2022. The Applicant was represented by its Managing Director, Mrs Anne Johnstone, the Respondent attended in person.
8. The Respondent confirmed she had received the updated rent statement and accepted that the rent due by her was £5926.00.
9. Mrs Johnstone confirmed that in principle she had no objection to the Respondent's offer to repay the debt at the rate of £500.00 per month but explained that the Respondent had made offers in the past that had not been kept and she therefore had a concern that this might happen again.
10. The Respondent accepted there had been conversations in the past and that she had been guilty of being over enthusiastic as to her ability to repay the debt. The Respondent said that she had been trying to build her business as a graphic designer back up and that it was getting better and she was now much more confident about being able to maintain the payments. The Respondent also explained that she was likely to receive an inheritance within the next few months from her late mother's estate and that it was her intention to clear the debt in full once she received these funds.
11. The Tribunal queried whether given the Respondent's income and expenditure as detailed on her application she would manage to maintain payments of £500.00 in addition to the rent. The Respondent explained that because she was self-employed her income varied from month to month but that February was healthier than the previous month and she had other work in progress and remained confident that she would be able to maintain the payments. She explained that she would wish to spread payment over the month and not have to make payment all at once on the twelfth of each month.

### **Findings in Fact**

12. The parties entered into a Private Residential Tenancy Agreement that commenced on 12 June 2018 at a monthly rent of £815.00.
13. The rent due by the Respondent as at 8 February 2022 amounts to £5926.00.

14. The Respondent has admitted the debt and has offered to pay the sum due by way of a Time to Pay Direction at the rate of £500.00 per month together with the continuing monthly rent of £815.00.

### **Reasons for Decision**

15. There was no dispute as to the amount due by the Respondent. In considering whether to grant a time to pay direction as requested by the Respondent the Tribunal considered whether it was reasonable in all the circumstances to do so in terms of Section 1 of the Debtors (Scotland) Act 1987 ("the 1987 Act"). The Tribunal had regard to the following:-

- (i) The nature and reasons for the debt;
- (ii) Any action taken by the debtor to assist the debtor in paying the debt;
- (iii) The debtor's financial position;
- (iv) The reasonableness of any proposal by the debtor to pay the debt; and
- (v) The reasonableness of any refusal of, or any objection by the creditor to any proposal by the debtor to pay the debt.

16. The Tribunal considered the Respondent's financial and personal circumstances from both her oral and written submissions and her assurance that she could afford to maintain payments at the rate of £500.00 per month in addition to the monthly rent. The Tribunal also noted that within a reasonably short period of time the Respondent may receive an inheritance that would allow her to clear the debt in full and that it was her intention to use these funds for that purpose. The Tribunal considered that as the debt would be paid off within one year at this rate this was a reasonable period. The Tribunal also took account of the fact that Mrs Johnstone was not opposed in principle to the order being granted. The Tribunal acknowledged that the Respondent had not maintained previous arrangements in the past but it should be noted that if the Respondent were to default on a time to pay order, then the order would become an open order that could be enforced by the Applicant through usual diligence.

17. Having taken all these issues into account the Tribunal determined that it was reasonable in the circumstances to grant the order for payment subject to a time to pay direction in the terms proposed by the Respondent.

### **Decision**

18. The Tribunal grants an order for payment by the Respondent to the Applicant in the sum of £5926.00. The order was granted subject to a time to pay direction under which the Respondent is required to pay the sum of £500.00 per month until the full amount has been paid.

## **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**

**10 February 2022  
Date**