



**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/19/0951**

**Re: Property at Inglesyde, The Square, Kintore, Aberdeenshire, AB51 0US  
("the Property")**

**Parties:**

**John R Craig (Kintore) Ltd, 7 Constitution Street, Inverurie, Aberdeenshire,  
AB51 4SG ("the Applicant")**

**Ms Kerry Lindsay, 4 Hallforest Avenue, Kintore, AB51 0TF ("the Respondent")**

**Tribunal Members:**

**Helen Forbes (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") refused the application for a Time to Pay Direction made by the  
Respondent and determined that an order for payment should be granted in  
the sum of £11,631.26 in favour of the Applicant.**

**Background**

This is an application dated 23<sup>rd</sup> May 2019, under Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"), whereby the Applicant was seeking an order for payment in the sum of £11,248.73 in respect of unpaid rent and utility bills.

The parties entered into a short assured tenancy in respect of the Property which commenced on 4<sup>th</sup> September 2017. The tenancy ended on 23<sup>rd</sup> April 2019.

By email dated 12<sup>th</sup> June 2019, the Applicant submitted an amended statement of sums due, amending the sum sought to £11,631.26. The sum was comprised of £5,989.36 rent arrears and £5,641.90 overdue in respect of gas and electricity bills for the Property.

The Tribunal received an application for a Time to Pay Direction from the Respondent on 2<sup>nd</sup> August 2019. The Respondent accepted the sum was due and offered the sum of £100 per month towards the debt.

The Tribunal received a Response to the Time to Pay Direction from the Applicant dated 5<sup>th</sup> August 2019. The Applicant indicated that he was not content with the proposal made by the Respondent, as it would take nine years and nine months to clear the debt at that rate.

### **The Case Management Discussion**

A Case Management Discussion ("CMD") was held on 8<sup>th</sup> August 2019 at the Credo Centre, 14-16 John Street, Aberdeen. The Applicant was represented by Mr Sean Wyness, Director. The Respondent was not in attendance. The Tribunal proceeded in terms of Rule 29 as intimation of the action and CMD had been made upon the Respondent, who had submitted a Time to Pay Direction application.

Mr Wyness said that no payment had been received from the Respondent this year. There had been promises made and payment arrangements agreed in the past but the outstanding debt was still £11,631.26.

My Wyness reiterated his concerns regarding the Time to Pay Direction application, as the amount proposed by the Respondent meant that the debt would not be cleared for a period of almost ten years.

In terms of Clause 6 of the tenancy agreement, the Respondent was responsible for payment of the utility bills. Because of the nature of the Property, it was not possible for the Respondent to receive the bills in her own name, so these were paid by the Applicant. This was the agreed arrangement between the parties. All payments made by the Respondent throughout the tenancy had been credited to the rent account.

### **Findings in Fact**

1. The parties entered into a short assured tenancy in respect of the Property that commenced on 4<sup>th</sup> September 2017 and ended on 23<sup>rd</sup> April 2019.
2. During the tenancy rent lawfully due in terms of the tenancy agreement between the parties was unpaid by the Respondent.
3. During the tenancy utility bills due in terms of the tenancy agreement between the parties were unpaid by the Respondent.
4. The Applicant is entitled to recover the sums due.

### **Reasons for Decision**

The Tribunal noted that the Respondent did not dispute that the sum sought was due. The Tribunal considered the application made by the Respondent for a Time to Pay Direction having regard to the nature and reasons for the debt, action taken by

the Applicant to assist the Respondent, the Respondent's financial position, and the reasonableness of both the Respondent's proposal and the Applicant's rejection of the proposal. The Tribunal considered that the proposal made was not reasonable, given the length of time it would take to clear the debt. The Respondent was not present to discuss whether a more reasonable proposal could be made. In the circumstances, given that the sum was due and admitted, the Tribunal considered that the Applicant was entitled to recover the outstanding sum.

### **Decision**

The Tribunal refused the application for a Time to Pay Direction made by the Respondent and determined that an order for payment should be granted in the sum of £11,631.26 in favour of the Applicant.

### **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.**

H.Forbes

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**Legal Member/Chair**

*8th August 2019*  
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**Date**