



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 5 of the Debtors (Scotland)
Act 1987**

Chamber Ref: FTS/HPC/PY/23/3258

Parties:

**Amanda Graham, 11 Campview Gardens, Danderhall, Dalkeith, Midlothian, EH22
1PR (“the Applicant”)**

**Mrs Mary Douglas, 1 Norton Avenue, Sale, Cheshire, M41 7HA (“the
Respondent”)**

Tribunal Members:

Nairn Young (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Applicant)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

- Background

This is an application for a time to pay order in relation to an order for payment by the Applicant to the Respondent of the sum of £24,175. It called for a case management discussion (‘CMD’) at 10am on 6 March 2024, by teleconference. The Respondent was on the call in-person. The Applicant did not phone in and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical issue she may have been experiencing, but there remained no contact from her.

Notice of the CMD was given to the Applicant by letter dated 15 January 2024 to the address noted in her application. The Tribunal was satisfied therefore that she was

aware of the CMD date, but had chosen not to attend. It therefore considered it was fair to proceed in her absence and on the basis of the information included in her application.

- Reasons for Decision

1. The Applicant was guarantor under a lease entered into by her daughter and another party. The Respondent was a landlord under that agreement. The Respondent was awarded an order for payment of the sum of £24,175 by the Tribunal against the Applicant on 29 June 2023, in relation to arrears of rent and damage caused to the let property. A charge for payment was served dated 8 September 2023.
2. The Applicant has offered to repay the debt at £200 per month. On the basis of the information provided with her application, that is an affordable offer. It will take around 10 years for her to pay off that debt at that rate. The Respondent opposes the order, principally on the basis that it will take an unreasonable amount of time for the debt to be paid.
3. The nature and reasons for the debt were not considered by the Tribunal to weigh in either direction, in this case. While the debt is not due directly to the Applicant's actions, she did give her guarantee to cover any shortfall in rent or damage and so effectively stands in place of her daughter in that regard. The whole purpose of a guarantee of that type is to offer reassurance to a potential landlord that the guarantor will be in a better position to settle any debt. If that relationship were to be classed as being more amenable to a time to pay order being granted, that would undermine that purpose.
4. The Respondent has not taken any apparent action to assist the Applicant in paying the debt and the debtor's financial position does not seem to be such as would allow a significantly larger offer of payment to be made. These factors do weigh in the Applicant's favour. However, the Tribunal considered that these are outweighed by the unreasonable amount of time it will take for the debt to be settled, based on this proposal; which is mirrored by the

reasonable position taken by the Respondent in refusing to accept it.

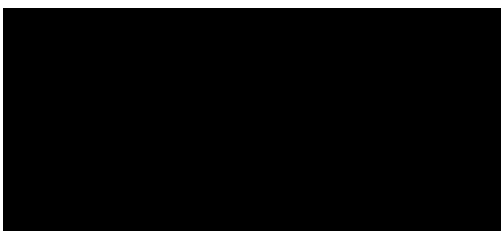
Ultimately, with a debt of this size, it is difficult to see what significant help the Respondent could provide to the Applicant to address it, particularly where the latter's financial position is such that she will struggle to meet the amount. It is simply not reasonable to force the Respondent to wait for over ten years for resolution of the matter. She is entitled to see resolution, one way or another, before then.

Decision

Application refused.

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

06/03/2024

Date