



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/24/4552

Re: Property at Flat D, 10 Buchanan Drive, Newton Mearns, G77 6QN (“the Property”)

Parties:

Mrs Christine Dearie, Mr James Dearie, 53 Beech Avenue, Newton Mearns, Glasgow, G77 5QR (“the Applicant”)

Ms Tinuke Aje, Habeeb Adelekan-Kamara, Flat D, 10 Buchanan Drive, Newton Mearns, G77 6QN; Flat D, 10 Buchanan Drive, Newton Mearns, G77 6QN (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the first Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of SEVENTEEN HUNDRED AND FIFTY POUNDS (£1750). The Tribunal made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987 requiring the respondents to pay the sum of £200 per month until the full amount has been paid.

Background

1. By application received on 28 October 2024 the applicants seek an order for payment in respect of rent arrears. The application was heard alongside application reference FTS/HPC/EV/24/4549 in terms of which the applicants

seek an order for eviction relying on section 33 of the Housing (Scotland) Act 1988.

2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Rent account for the duration of the tenancy
3. The respondent submitted an application for a time to pay direction dated 17 March 2025.
4. A case management discussion was scheduled for 16 April 2025.

Case management discussion (“cmd”) – teleconference – 16 April 2025

5. Mrs Dearie was in attendance with her solicitor Ms Herd, Complete Clarity Solicitors. The second respondent was in attendance. Papers had been served on the first respondent by Sheriff Officers at the address in the application. The second respondent stated that the first respondent had moved from the property in April 2024. He stated that she continued to visit the property on a regular basis to see her 2 young children who reside in the property. The second respondent stated that he was unable to provide a new address for the first respondent. The Tribunal determined to proceed with the cmd in the absence of the first respondent on the basis that she had been notified in accordance with rule 24.
6. On 15 April 2025, Ms Herd had submitted a response to the time to pay direction application together with other documents. These had not been copied to the respondents in advance of the cmd.
7. At the cmd the second respondent stated that he accepted that he owed £1750 rent arrears. Ms Herd stated that arrears at present were £1899 however in the interests of resolving the matter the applicants were prepared to agree to a time to pay direction in the amount of £1750. The applicant offered to repay the arrears at the rate of £200 per month. The offer was accepted by the applicants.
8. The second respondent had lodged details of his income and outgoings in the time to pay direction application which showed that the offer to repay was realistic.

Findings in fact and law

9. Parties entered into a tenancy agreement with a commencement date of 24 March 2017.
10. Monthly rent due in terms of the agreement is £750.
11. The second respondent accepts that rent arrears amount to £1750 as at 16 April 2024
12. The second respondent has made an offer to repay the arrears at the rate of £200 per month which is acceptable to the applicants.
13. The level of repayment offered is reasonable taking into account the second respondent's financial circumstances.

Reasons for the decision

14. The Tribunal considered the terms of the application for a time to pay direction submitted by the second respondent.
15. Section 1 of the Debtors (Scotland) Act 1987 states:

(1) Subject to subsections (3) to (5) below and to section 14 of this Act, on an application by the debtor, the court or the First-tier Tribunal on granting decree for payment of any principal sum of money, shall, if satisfied that it is reasonable in all the circumstances to do so, and having regard in particular to the matters mentioned in subsection (1A) below, direct that any sum decerned for in the decree (including any interest claimed in pursuance of subsections (6) and (7) below) or any expenses in relation to which the decree contains a finding as to liability or both such sum and such expenses shall be paid—

(a) by such instalments, commencing at such time after the date of intimation by the creditor to the debtor of an extract of the decree containing the direction, payable at such intervals; or

(b) as a lump sum at the end of such period following intimation as mentioned in paragraph (a) above,

as the court or the First-tier Tribunal may specify in the direction.

(1A) The matters referred to in subsection (1) above are—

(a) the nature of and reasons for the debt in relation to which decree is granted;

(b) any action taken by the creditor to assist the debtor in paying that debt;

(c)the debtor's financial position;

(d)the reasonableness of any proposal by the debtor to pay that debt; and

(e)the reasonableness of any refusal by the creditor of, or any objection by the creditor to, any proposal by the debtor to pay that debt.

(2)A direction under subsection (1) above shall be known as a “time to pay direction”.

16. The applicants consented to a time to pay direction with payment at the rate of £200 per month. The Tribunal had regard to the second respondent's financial circumstances as set out in the application. The offer seemed reasonable and realistic. The Tribunal was satisfied that it was reasonable to grant a time to pay direction.

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.

Mary-Claire Kelly

Legal Member/Chair

16 April 2025 _____
Date