



**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/19/1777

**Re: Property at 275 Union Grove, 1st floor right, Aberdeen, AB10 6TA (“the
Property”)**

Parties:

Mr Anthony Petchy, 15 Braemar Place, Aberdeen, AB10 6EN (“the Applicant”)

**Mr Andrew Cargill, 14 Shapinsay Court, Aberdeen AB15 6NG (“the
Respondent”)**

Tribunal Members:

Petra Hennig-McFatridge (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an order for payment should be granted in favour of
the Applicant. A time to pay direction was made allowing the Respondent to
make payment of the principal sum of £2,462.74 by instalments in the sum of
£120 per month.**

Procedural Background:

The Applicant is seeking an order for payment of rent arrears for the property. An application in terms of Rule 70 (Civil Proceedings) was lodged on 7 June 2019 and the sum outstanding stated as £3,062.74 rent arrears, based on a monthly rent of £600 for a Short Assured Tenancy starting 4 April 2014 to the end of the tenancy on 12 April 2019.

The Applicant lodged the Short Assured Tenancy Agreement dated 4 April 2014 with Appendix documents dated 2.3.2018, 7.3.2017, undated and 10.4.2015, Tenant Statement showing rent arrears of £3,062.74 up to 22.3.2019 and various emails

between the Respondent and Homeguard Leasing Ltd and between the Applicant and Homeguard Leasing Ltd.

In the application the Applicant suggested a payment for the sum outstanding at a rate of £120 per months by the Respondent.

The Tribunal first fixed a Case Management Discussion for 13 August 2019 at which both the Applicant and the Respondent attended.

The Case Management Discussion:

Both parties attended the Case Management Discussion (CMD). Both parties had been advised in the documentations sent by the First tier Tribunal that a decision can be made at the CMD.

At the CMD the Applicant provided a copy of the updated Tenant Statement showing that the deposit of £600 had been released to him and asked to amend the sum to £2,462.74. The Respondent provided his new address and lodged a time to pay application at the rate of £120 per month. There was a short adjournment to allow the Applicant to consider the proposal.

The Respondent confirmed that the statements set out in the application and the calculation of the sum outstanding were not disputed and asked that an order allowing him to pay at the suggested £120 per month should be granted for the sum stated above. The Applicant consented to the time to pay application.

Findings in Fact:

- 1. The Applicants and the Respondents entered into a Short Assured Tenancy on 4 April 2014. The Respondent moved out on 12 April 2019**
- 2. In terms of the Agreement rent of £600 is due in advance of each rent payment date.**
- 3. The amount of arrears as at the end of the tenancy was £3,062.74 as shown in the schedule.**
- 4. The deposit of £600 was released to the Applicant and applied towards the arrears, leaving the sum of £2,462.74 outstanding.**
- 5. The parties are agreed that this should be paid in instalments of £120 per month.**
- 6. At this rate payment of the full sum will take less than 2 years.**

Reasons for the Decision:

The Tribunal make the decision on the basis of the written evidence lodged by both parties and the evidence of the parties at the CMD.

The facts in the case are not disputed.

The rent outstanding as of the date of the CMD based on the amounts paid as per the schedule lodged and the rent charge of £600 per calendar month and the deposit release is £2,462.74. There was no defence to the action. It is not in dispute that the arrears are due by the Respondent to the Applicant.

The Respondent lodged a time to pay application at the CMD which was agreed by the Applicant.

The Applicant is entitled to payment of the sum of £2,462.74.

The Tribunal grants the order as rent lawfully due to the Applicant by the Respondent had not been paid.

The Respondent now seeks to clear the debt accumulated.

The Tribunal was satisfied that it was reasonable in all the circumstances to grant a time to pay direction, having regard to the nature and reason of the debt, the action taken by the Applicant to assist the Respondent in paying the debt, the Respondent's financial position, the reasonableness of the Respondent's proposal and the Applicant's agreement to the proposal.

From the information on the application for time to pay direction the Tribunal is satisfied that the payment rate proposed is realistic and the debt would be cleared within less than 2 years.

Decision

The Tribunal grants an order against the Respondent for payment of the sum of £2,462.74 to the Applicant. The Tribunal also makes a time to pay direction allowing payment to be made by instalments of £120 per month.

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.

P. Hennig - McFatridge

Legal Member/Chair

13. 8. 13

Date