



**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 and Section 1(1) of the Debtors (Scotland) Act 1987**

Chamber Ref: FTS/HPC/CV/19/0601

Re: Property at 20 Easterton Avenue, Busby, G76 8JJ (“the Property”)

Parties:

Mr James Gormley, 8 Airylygg Drive, Eaglesham, G76 0LJ (“the Applicant”)

Ms Alison Fase, 8 Hawthorn Gardens, Busby, G76 8BB (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision (in absence of the parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent of the sum of £3400 should be granted in favour of the applicant. The tribunal made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, requiring the respondent to pay the sum of £40 per month until the full amount has been paid.

Background

- 1. An application was received from the applicant on 22 February 2019 seeking a payment order brought in terms of rule 70 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).**
- 2. The applicant was seeking payment of rent arrears of £3315 from the respondent in relation to the property, being the amount of arrears outstanding as at the date of the application.**

3. A case management discussion (CMD) was held on 15 April 2019. On joint application of the parties, the tribunal adjourned the CMD for a period of three months to monitor payments by the respondent to the applicant. A further CMD was scheduled for 16 July 2019, but this was later postponed at short notice following a request by the applicant due to a bereavement. The continued CMD was then scheduled for 27 August 2019.
4. An application for a time to pay direction under the Debtors (Scotland) Act 1987 was received from the respondent on 11 July 2019. In the application, the respondent stated that she admitted the applicant's claim against her. She requested a time to pay direction in relation to the debt at a rate of £40 per month. On 22 July 2019, a response to the time to pay direction application was received from the applicant, who stated that he was content with the respondent's proposal for time to pay.
5. Given that the respondent admitted that she owed the sum claimed, and the applicant had accepted her offer to pay, the tribunal decided to grant the time to pay direction for the reasons set out below. The tribunal therefore considered that a further CMD was not required and decided to cancel the CMD scheduled for 27 August 2019. The tribunal then proceeded to make a decision on the application on the basis of the information before it.

Findings in Fact

6. The tribunal made the following findings in fact;
 - There was a short assured tenancy in place between the parties. The tenancy began on 1 March 2007 and came to an end in June 2018 when the respondent left the property.
 - There were outstanding arrears of rent totalling £3315 as at the end of the tenancy.
 - As at 3 August 2019, the outstanding sum owed by the respondent to the applicant was £3200.

Reasons for Decision

7. There was agreement between the parties that the sum sought by the applicant was due by the respondent. The respondent had admitted the claim, and the tribunal therefore determined that an order for payment should be granted.
8. The tribunal then considered whether to grant the order subject to a time to pay direction, as requested by the applicant. Section 1 of the Debtors (Scotland) Act 1987 states shall, if satisfied that it is reasonable in all the circumstances to do so, and having regard to the matters mentioned in subsection 1A, direct that the sum claimed shall be paid by instalments or as a lump sum.

9. The matters mentioned in subsection 1A are:
- a) The nature of and reasons for the debt in relation to which the order 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.
10. The tribunal considered whether it was reasonable in all the circumstances to grant a time to pay direction. It noted that the applicant was happy to accept the respondent's proposal. The note of the CMD on 15 April 2019 stated that the applicant appreciated that the respondent had financial difficulties and was amenable to allowing her further time to clear the outstanding rent arrears. The tribunal also noted that since the application was made, the applicant had repaid £115 of the sum due. In an email to the tribunal on 3 August 2019, the applicant stated that the respondent had paid £50 in May, £25 in June and £40 in July towards the arrears. He said that she had assured him that she would in future pay £40 per month by standing order.
11. The tribunal noted that it would take the respondent more than six years to repay the outstanding debt at the proposed rate of £40 per month. In her time to pay application, the respondent stated that she was unemployed; that she had a dependant child; and that her only income was state benefits totalling around £227 per fortnight. Her ability to pay is therefore currently very limited, given her other monthly outgoings. She stated in her application that should her circumstances change, she would pay more towards her arrears.
12. Having considered all of the evidence before it, the tribunal is satisfied that it is reasonable in all the circumstances to grant a time to pay direction as sought by the respondent.

Decision

The tribunal grants an order for payment by the respondent to the applicant for the sum of £3200. The tribunal makes a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, requiring the respondent to pay the sum of £40 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.

Sarah O'Neill

Legal Member/Chair

15/8/19

Date