

**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) Act 2016**

**Chamber Ref: FTS/HPC/CV/22/1788**

**Re: Property at 3 Howat Terrace, Dumfries, DG2 7DD (“the Property”)**

**Parties:**

**Mr Stephen Head and Mrs Margaret Head, 18 Undercraigs Road, Dumfries, DG1 2YA; (“the Applicants”)**

**Mr Robert Cumming, 3 Howat Terrace, Dumfries, DG2 7DD (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of ONE THOUSAND FIVE HUNDRED AND ELEVEN POUNDS AND TWENTY PENCE (£1511.20) STERLING and made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987. The order for payment will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

**Background**

1. The Applicants’ solicitor applied to the First- tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a private residential tenancy agreement between the parties signed and dated 24 February 2020 and a rent statement setting out arrears.

3. On 23 July 2022, the Tribunal intimated a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 6 September 2022.
4. In response, on 8 August 2022 the Respondent admitted the arrears and made an application to pay the arrears by way of fortnightly instalments of £100. On 23 August 2022 the Applicants’ solicitor advised the Tribunal the Applicants would accept Time to Pay application. In the circumstances, the Tribunal discharged the CMD assigned for 6 September 2022. Further subsequent emails from the Applicant advised that the tenancy had ended on 2 September 2022 and that the tenancy deposit was being dealt with by the scheme administrator. The Respondent subsequently indicated that he wished to take legal advice. The Tribunal accordingly assigned a new CMD. The Tribunal sought confirmation as to the arrears at the date of termination of the tenancy. The Applicant’s solicitor advised that these were £1511.20.

### **Case Management Discussion**

5. The Tribunal proceeded to a CMD on 27 October 2022 by way of teleconference. The Applicant was represented by Mr Paul Matthews, Consultant at JHS Law. The Respondent appeared on his own behalf.
6. There was no disagreement between the parties that monthly rent of £460 had been due under the Private Residential Tenancy Agreement between the parties which had terminated on 2 September 2022. There was no disagreement that the arrears at that date were £1511.20. The distribution of the tenancy deposit of £460 was still to be determined by Safe Deposits Scotland.
7. The Respondent advised that he had taken legal advice since his original offer to clear the arrears at £100 per fortnight. His circumstances had changed. He had changed job and had recently had a new baby daughter. He was currently on paternity leave. He made a new proposal to clear the arrears by monthly instalments of £150.
8. In response Mr Matthews advised that his clients were realistic people. It would take about a year to clear the arrears based on the Respondent’s new offer. He did not have specific instructions to accept any new offer and appreciated that it was a matter for the Tribunal to determine.

### **Decision**

9. The Tribunal was of the opinion that the Respondent’s new offer to clear the arrears was reasonable. The Tribunal granted a payment Order for £1511.20 and made a time to pay direction for the Respondent to pay the Applicants

£150 per month under Section 1(1) of the Debtor's (Scotland) Act 1987 as set out in the Order.

### **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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

**Shirley Evans**

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27 October 2022

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Legal Member

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Date