

Housing and Property Chamber
First-tier Tribunal for Scotland



**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/19/1231

Re: Property at 35 2/3 Mains Loan, Dundee, DD4 7AB ("the Property")

Parties:

Mr Richard Kiru, C/o 7 South Tay Street, Dundee, DD1 1NU ("the Applicant")

Mr Stephen McKenna, 58 11R Balgarthno Terrace, Dundee, DD2 4RD ("the Respondent")

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £1300.00 payable in terms of a Time to Pay Direction under the Debtors (Scotland) Act 1987 at the rate of 260.00 per month with the first payment being due within 14 days of intimation of the order.

Background

1. By application dated 15 April 2019 the Applicant's representatives Easylets Limited, 7 South Tay Street, Dundee applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent's tenancy of the property under a Short Assured Tenancy. The Applicant's representatives supplied the Tribunal with a copy of the tenancy agreement and form AT5 together with a statement of account.
2. By Notice of Acceptance dated 15 May 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was sent to the Applicant's representatives by post on 3 June 2019 and to the Respondent by Sheriff Officers on 5 June 2019.
4. The Respondent submitted an application for a Time to Pay Direction to the Tribunal dated 6 June 2019 admitting the Applicant's claim and offering to pay at the rate of £260.00 per month. The Respondent provided details of his income and outgoings. He provided information regarding his dependants and debts.
5. By Response dated 12 June 2019 the Applicant's representatives confirmed acceptance of the Respondent's proposal for time to pay.
6. As the parties were in agreement the Tribunal discharged the Case Management Discussion assigned for 5 July 2019 and proceed to make a determination without a hearing in accordance with Rule 18 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Findings in Fact

7. The parties entered into a Short Assured Tenancy Agreement that commenced on 1 April 2017.
8. The rent was £700.00 per month.
9. When the tenancy ended in February 2019 there were arrears of rent amounting to £1300.00.
10. The Respondent admitted this amount was due to the Applicant and offered to pay under a time to pay direction at the rate of £260.00 per month.

Reasons for Decision

11. The Respondent has offered to pay under a time to pay direction at the rate of £260.00 per month. He is in employment. He is unable to repay the debt in a lump sum. It will take the Respondent about 5 months to clear the debt. In the circumstances that is a reasonable time period. The Applicant's representatives are content with the Respondent's proposal.

Decision

12 The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £1300.00 payable in terms of a Time to Pay direction under the Debtors (Scotland) Act 1987 at the rate of £260.00 per month with the first payment being due within 14 days of intimation of 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.

G Harding

20 June 2019
Date