

**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)**

**Chamber Ref: FTS/HPC/CV/19/2746**

**Re: Property at 40 Targe Wynd, Stirling Stirlingshire FK7 7XR (“the Property”)**

**Parties: Philip Brown and Johanna Brown residing together at 41 Lowrie Gait,  
South Queensferry EH30 9AB (“the Applicants”)**

**Claire Nicola Selby residing at 11H MacDonald Drive, ST Ninians, Stirling, FK7  
9ER (“the First Respondent”)**

**Afrim Barjoti, residing at 40 Maurice Avenue, Stirling FK7 7UD (“the Second  
Respondent”)**

**Tribunal Members:**

**Paul Doyle (Legal Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order for payment should be made.**

**Background**

The Applicants sought an order for payment of rental arrears totalling £3,076.16. The Applicants had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement and bank statements. A copy title sheet was lodged with the Tribunal which showed that the applicants are the heritable proprietors of the Property.

**Case Management Discussion**

A case management discussion took place before the Tribunal at 10.00am on 20 January 2020 at the Wallace House, Maxwell Place, Stirling Tribunals Centre, The Applicants were present and were unrepresented, There was no appearance by or on behalf of either of the Respondents. The first respondent tendered a time to pay

application offering to pay the arrears of rental by instalments of £40 per calendar month and saying that the second respondent vacated the property in April 2016.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicants and the Respondents entered into a Short-Assured Tenancy Agreement for the Property dated 19 December 2014.
2. The period of the Lease was from 19 December 2014 to 19 June 2015 and thereafter on a month to month basis.
3. The initial rent in terms of the Tenancy Agreement was £700 per month.
4. The Respondents failed to make payment of rent due in February, June, July, August and September all 2019. At the date of application, there were arrears of rental totalling £2,800. At today's date there are arrears of rental totalling £3,076.16.
5. Notice of the date of this hearing was served on each Respondent by sheriff officers on 20 November 2019.
6. The second respondent does not resist the application, even though the first respondent says the second respondent has no liability because he removed from the property in April 2016. Even if the second respondent did remove from the property some time ago, his liability continues because the lease did not come to an end and he took no steps to contact the applicants to assign his interest in the lease to the first respondent.
7. The first respondent admits that the sums are due by her to the applicants but asks for a time to pay direction and offers to pay the outstanding sum by instalments of £40.00 per calendar month. The applicants are not prepared to accept that offer. I consider the application for time to pay. The total sum due is £3076.16. It would take 77 months (or 6.5 years) to repay the sum due with those instalments. I note that the first respondent's finances are already stretched, but the time to pay application does not present a realistic proposal to clear sums admittedly due.
8. The applicants are entitled to a payment order against both respondents in the sum of £3076.16

### **Reasons for the Decision**

The Tribunal determined to make an Order for payment of £3076.16. Rent was lawfully due in terms of clause 1.9 of the Tenancy Agreement at the rate of £700 per month. In February 2019 and between June and September 2019 the Respondents

did not pay any rent. There is a sum due to the applicants by both respondents of £3076.16 in arrears of rental.

### **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for payment.

### **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.**

  
Legal Member

Date 20 January 2020