

**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/19/1538**

**Re: Property at 40 Burrelton Gardens, Dundee, DD3 9QT (“the Property”)**

**Parties:**

**Mr Daniel Nwankwo, Mrs Elizabeth Nwankwo, 10 Royal Road, Sidcup, Kent,  
DA14 4RQ (“the Applicants”)**

**Mr Ross Byers, Mr Stephen Byers, 40 Burrelton Gardens, Dundee, DD3 9QT  
 (“the Respondents”)**

**Tribunal Members:**

**Maurice O'Carroll (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that the Applicant should be granted a Payment Order in  
the sum of £2,153.96.**

**Background**

1. A Case Management Discussion (“CMD”) was held at 10am on 16 July 2019 at Caledonian House, Greenmarket, Dundee. Ms Sarah Cooper of Messrs Thorntons, solicitors, appeared for the Applicants. There was no appearance for the Respondents or anyone on their behalf. No reason or advance notification of the Respondents’ non-appearance had been provided to the Tribunal office.
2. The Legal Member had received executions of service from Sheriff Officers in respect of both Respondents and was satisfied that due notice of the CMD had been provide. Accordingly, the Tribunal decided to hold the CMD in the absence of the Respondents.

**Findings in fact**

3. The parties entered into a Short Assured Tenancy Agreement in respect of the Property which commenced on 15 July 2015, the date of entry. The rent payable was £550 per calendar month.

4. The rent was not paid in terms of the lease with the result that the Landlord served notice to quit on both Respondents, which is the subject of related proceedings under application EV/19/1540.
5. Miss Cooper on behalf of the Applicants provided the Tribunal with a payment schedule which evidenced a shortfall in rental payments amounting to £2,153.96 as at 17 May 2019. No increase in that amount was sought at the CMD.
6. Miss Cooper also pointed out to the Tribunal that the lease between the parties contained an interest clause at page 2 thereof. It provided for any unpaid rent or other payments to be subject to an interest charge of 5% a year above the base rate applied by the Royal Bank of Scotland from time to time.

### **Decision**

7. In light of the above findings in fact, the Tribunal was satisfied that:
  - The Respondents are in arrears in terms of the rental agreement between the parties to the extent of £2,153.96, and
  - The appropriate rate of interest to be applied to those arrears is 5% above base applied by the Royal Bank of Scotland.
8. Therefore it grants the Order for Payment in the sum sought by the Applicants with contractual interest at the rate noted above.

### **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.**

Maurice O'Carroll

**Legal Member/Chair**

\_\_\_\_\_ 16 July 2019  
**Date**