

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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

**Chamber Ref:** FTS/HPC/CV/22/0762

**Property:** 71 Church Street, Dumfries DG2 7AT (“the Property”)

**Parties:** Mr Kenny Degnan, 28 Averill Crescent, Dumfries DG2 7RY (“the Applicant”)

Mr Liam Donowho, Ms Morag Donowho, 71 Church Street, Dumfries DG2 2AT;  
South Bowerhouse Cottage, Ruthwell, Dumfries DG1 4LZ (“the Respondents”)

**Tribunal Members:**

Mark Thorley (Legal Member)  
Angus Lamont (Ordinary Member)

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for payment by the respondents to the applicant in the sum of FOUR THOUSAND EIGHT HUNDRED AND EIGHT FIVE POUNDS (£4,885) be made.

**Background**

1. The applicant applied to the tribunal by application dated 15 March 2022. Accompanying the application was a copy of the Private Residential Tenancy Agreement, Bank Statements from January 2019 to February 2022 and correspondence between the applicant and respondents.
2. The application was acknowledged by the tribunal on 18 March 2022. Further information was sought by the tribunal and on 5 May 2022 the application was accepted for determination. Intimation of the application was made to the respondents by sheriff officers on 26 May 2022.
3. No written representations were received although a time to pay application was made in the sum of £100 per month.
4. The time to pay application was rejected by the applicant.

**Case Management Discussion**

5. At the case management discussion Ms Turnburn from Messrs Colledge & Shields, Dumfries attended on behalf of the applicant and the second respondent attended both in her own right and on behalf of her son the first respondent.

6. The second respondent acknowledged that the sum of £4,885 was due. The only issues remaining therefore was as to time to pay.

### **Findings in fact**

7. The applicant and the first respondent entered into a Private Residential Tenancy Agreement in respect of the property at 71 Church Street, Dumfries DG2 7AT.
8. The commencement date of the tenancy was 28 September 2018.
9. Rent was due to be paid at the rate of £450 per calendar month. By 15 March 2022 the sum of £4,885 of rent was outstanding.

### **Reasons for decision**

10. The second respondent acknowledged that the rent was due. She indicated that her son had mental health issues. There was an issue with his benefits. He had not been able to pay the rent. Although she was working it was in a limited capacity. She was able to offer £100 per month but she didn't know what her son could offer.
11. The time to pay application had been rejected on the basis that it would take approximately four years to pay off the sums due.
12. The tribunal considered firstly the issue of whether rent was outstanding. On the basis of the acceptance by the second respondent that the money was due the tribunal accepted that that sum was due.
13. Thereafter the issue was whether a time to pay application be granted. The tribunal considered that £100 per month was too small an amount as it would take four years to pay off. As a result the tribunal simply granted an open order.

### **Decision**

14. An order for payment by the respondents to the applicant of the sum of FOUR THOUSAND EIGHT HUNDRED AND EIGHTY FIVE POUNDS (£4,885).

### **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/Chair:**



**Date:** 13 July 2022