



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/23/4616**

**Property : 25B Vicar Street, Falkirk FK1 1LL (“Property”)**

**Parties:**

**H&B Collection Ltd, 9 Royal Crescent, Glasgow G3 7SP (“Applicant”)**

**TC Young Solicitors, 7 West George Street, Glasgow G2 1BA (“Applicant’s Representative”)**

**Steven Robb, 25B Vicar Street, Falkirk FK1 1LL (“First Respondent”)**

**Brogan Stewart, Avondhu, Bank Street, Slamannan, Falkirk FK1 3EZ (“Second Respondent”)**

**Cartys, Solicitors, 2 Clydeview Centre, Blantyre G72 0QD (Respondent’s Representative”)**

**Tribunal Members:**

**Joan Devine (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision**

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

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Residential Tenancy between the Applicant and the Respondent dated 18 April 2019; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 6 June 2023 (“Notice to Leave”) in which the ground for eviction was ground 12; copy email from the Applicant’s agent to the Respondent dated 6 June 2023 attaching the Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 20 December 2023; Rent increase notice dated 14 April 2023

with covering email to each Respondent; rent statement and copy letters from the Applicant's agent to the Respondent regarding rent arrears dated between 3 February and 1 June 2023. The Tribunal had sight of a certificate of service by sheriff officer evidencing service of the Application on the First and Second Respondent on 18 March 2024. On 3 April 2024 the First Respondent lodged a written submission in which he stated he accepted liability for "his share" of the outstanding rent. The Representative for the Second Respondent lodged a written submission on 18 April 2024.

### **Case Management Discussion**

A Case Management Discussion took place before the Tribunal on 24 April 2024 by teleconference. The Applicant was represented by Claire Mullen of the Applicant's Representative. There was no appearance by the First Respondent. The Second Respondent was in attendance and was represented by Lisa Agyako of the Second Respondent's Representative.

Mrs Mullen told the Tribunal there had been no recent contact with the First Respondent. She said she understood he was 42 years old and had been in employment when he took up the tenancy. She said the Applicant had been unaware that the First Respondent had a daughter until this was referred to in the submission lodged for the Second Respondent.

The Second Respondent told the Tribunal that the First Respondent lived in the Property with his 19 year old daughter who had been living in the Property for 2 years. She said she did not know if the First Respondent was currently working. She said he is self employed. Ms Agyako confirmed the Second Respondent does not oppose the Application.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the First and Second Respondent entered into a Tenancy Agreement dated 18 April 2019 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 6 June 2023.
3. At the date of service of the Notice to Leave the rent had been in arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 27 November 2023.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 12 which is that the tenant has been in rent arrears for 3 or more consecutive months. The Tribunal considered the statement of rent arrears provided and determined that the ground 12 for eviction had been established.

In the absence of any submission by the First Respondent that it would not be reasonable to grant an order for eviction, and in light of the submission made by the Applicant's Representative, the Tribunal determined that it was reasonable to issue an eviction order.

### **Decision**

The Tribunal grants an order for possession of the Property.

### **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: 24 April 2024**