

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/22/3301**

**Re: Property at 3/17 Anchor Mill, 7 Thread Street, Paisley, PA1 1JR (“the Property”)**

**Parties:**

**Mr Stuart Crawford, 48 Napier Gardens, Paisley, PA3 3AW (“the Applicant”)**

**Mr Matthew Steel, 3/17 Anchor Mill, 7 Thread Street, Paisley, PA1 1JR (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Jane Heppenstall (Ordinary 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 the eviction of the Respondent from the property.**

**Background**

1. By application dated 7 September 2022 the Applicant’s representatives, Ross & Liddell Ltd, Letting Agents, Glasgow, applied to the Tribunal for an order for the eviction of the Respondent from the property under Ground 12 of Schedule 3 of the Private housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of the tenancy agreement, Notice to Leave, Section 11 Notice and proof of delivery in support of the application. The Applicant’s representative subsequently submitted a rent statement and email explaining the arrears of rent accumulated by the Respondent.
2. By Notice of Acceptance dated 10 October 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 25 November 2022.

### **The Case Management discussion**

4. A CMD was held by teleconference on 10 January 2023. At the commencement of the CMD neither party was in attendance or was represented. The Tribunal clerk contacted the Applicant's representatives and after some delay Mrs Ann McMaster attended on behalf of the Applicant. She offered her apologies for being late and explained she had mis-diarised the appointment. The Respondent did not attend and the Tribunal proceeded in his absence.
5. The Tribunal noted from Mrs McMaster that the parties had entered into a Private Residential Tenancy that had commenced on 21 December 2020 at a rent of £695.00 per calendar month. The Tribunal also noted that the Respondent had arrears of rent by September 2021 amounting to £1390.00. This had reduced to £295.00 by January 2022 before increasing to £4265.00 in October 2022.
6. The Tribunal noted that at the time of service of the Notice to Leave by email on 19 July 2022 the Respondent had been in arrears of rent for more than three months. The Tribunal noted that the Notice to Leave had been sent by email on 19 July 2022 advising the Respondent that the Applicant was seeking to evict him from the property under Ground 12 of Schedule 3 of the 2016 Act and that an application would not be made to the Tribunal before 19 August 2022.
7. The Tribunal noted that the Applicant's representatives had sent a Section 11 Notice to Renfrewshire Council by email on 7 September 2022.
8. Mrs McMaster advised the Tribunal that the Respondent had not paid any rent in October, November or December. She said that the current amount of rent due was between £5000.00 and £6000.00.
9. Mrs McMaster said that she had been contacted by the police the previous week as they were looking for the Respondent and thought that he may no longer be residing at the property. She said she had accompanied the police to the property and entered it with them as it had been left unsecured. She advised the Tribunal that a carton of milk in the fridge was dated from September 2022 and cake from June 2022. She said it did not seem as if the Respondent was living at the property as he was on the run from the police.
10. Mrs McMaster confirmed that at one point some months previously the Respondent had offered to agree a payment plan to clear the arrears but had not progressed it and there had been no contact from him since September.
11. Mrs McMaster advised the Tribunal that her firm only managed one property for the Applicant and did not know if he had any other rental properties.

## **Findings in Fact**

12. The parties entered into a Private Residential Tenancy that commenced on 21 December 2020 at a rent of £695.00 per calendar month.
13. The Respondent fell into arrears of rent in about September 2021 and had been in arrears for at least three months when served with a Notice to Leave on 19 July 2022.
14. The Respondent owed more than the equivalent of one month's rent as at the date of the CMD.
15. The Respondent has not paid any rent since September 2022.
16. The Respondent has not been in contact with the Applicant's representatives since September 2022.
17. The Respondent may no longer be living in the property.

## **Reasons for Decision**

18. The Tribunal was satisfied from the written representations and documents together with the oral submissions that the parties entered into a Private Residential Tenancy that commenced on 21 December 2020 at a rent of £695.00 per calendar month.
19. The Tribunal was also satisfied that the Respondent had fallen into arrears of rent and that a valid Notice to Leave was served on the Respondent by email on 19 July 2022 with the Respondent having been in arrears for three consecutive months. The Tribunal was also satisfied from the documents produced that proper intimation of the proceedings had been given to Renfrewshire Council by way of a Section 11 Notice sent by email on 7 September 2022.
20. The Tribunal was satisfied from the documents produced and the oral submissions that as at the date of the CMD more than the equivalent of one month's rent was due by the Respondent to the Applicant and therefore the ground for eviction under ground 12 of Schedule 3 of the 2016 Act had been established subject to the Tribunal being satisfied in terms of the Coronavirus (Scotland) Act 2020 and the Coronavirus Recovery and Reform (Scotland) Act 2022 that it was reasonable in the circumstances to grant the order.
21. In considering whether it was reasonable to grant the order the Tribunal took account of the fact that the Respondent had not submitted any written representations or attended the CMD. It also appeared that he may no longer be residing at the property and the rent arrears amounted to somewhere between £5000.00 and £6000.00. Taking these factors into account the Tribunal was satisfied that it was reasonable to grant the order.

## **Decision**

22. Having carefully considered the written representations, documents and oral submissions and being satisfied it had sufficient information before it to make a decision without the need for a hearing the Tribunal finds the Applicant entitled to an order for the eviction of the Respondent from the property under Ground 12 of Schedule 3 of the 2016 Act.

## **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.**

Graham Harding

**Legal Member/Chair**

**10 January 2023**  
**Date**