



**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/23/0463**

**Re: Property at Flat 2 389 Kilbowie Road, Clydebank, G81 2TX (“the Property”)**

**Parties:**

**Owning Life Ltd, C/O O'Meara Fitzmaurice and Co, Brimstage Hall, Brimstage Road, Wirral, CH63 6JA (“the Applicant”)**

**Mr Michael Reilly, Flat 2 389 Kilbowie Road, Clydebank, G81 2TX (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Frances Wood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.**

**Background**

The Applicant seeks an Eviction Order in terms of ground 12 of schedule 3 of the Act in that it is said that the Respondent is in arrears of rent of a sum equal to at least one month’s rent and has been so in arrears for at least three months. The Application is accompanied by a copy of the tenancy agreement, rent statements, the notice to leave relied on and proof of service, the notice to the local authority under s 11 of the Homelessness (etc) (Scotland) Act 2003, and evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) (Regulations) 2020.

## **The Case Management Discussion**

The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 7 June 2023. The Applicant was represented by Ms McCulloch of Eve Property (Scotland) Limited. The Respondent was not present nor represented. The Application and information about how to join the conference call had been served on the Respondent by Sheriff Officers. Accordingly, the Tribunal decided to proceed in the absence of the Respondent.

Having heard from Ms McCulloch and having considered all the documentary evidence before the Tribunal, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a Private Residential Tenancy Agreement that commenced on 11 February 2022;*
- II. *The contractual monthly rent was £525.00;*
- III. *The Respondent fell into rent arrears and on 14 December 2022 the Applicant competently served a Notice to Leave on the Respondent in terms of ground 12 of schedule 3 of the Act. The ground was established as at that date;*
- IV. *The Applicant has complied with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) (Regulations) 2020 and s11 of the Homelessness (etc) (Scotland) Act 2003;*
- V. *The Respondent's arrears have increased since the Application was lodged and currently are in the sum of £2,095.07. The Respondent made payment of £100.00 on 5 June 2022, having made five separate payments totalling £570.00 in the month of May. In April one payment of £200.00 was made and in March the sum of £120.00. The contractual monthly rent has not been paid on time and in one regular payment since July 2022. Ground 12 remains established as at today's date;*
- VI. *The Tribunal noted that the Respondent had made no representations today and there was nothing before the Tribunal that set out his position or his future intentions. The Applicant appeared to operate the Property as an investment Property and there was nothing to suggest what impact the late and sporadic rent payments were having on the Applicant.*

### **Reasons for Decision**

The Tribunal adjourned and considered whether a decision could be made. Having done so, the Tribunal concluded that the ground relied on in the Application was established and that it was reasonable to grant an Eviction Order. The Tribunal acknowledged that recent payments had been made but nevertheless, the arrears had still increased and the Respondent's lack of engagement provided no room for optimism that they were unlikely simply to increase further.

### **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.

**Andrew McLaughlin**

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Legal Member/Chair

7 June 2022  
Date