



**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/23/1015**

**Re: Property at 58 Manse View, Motherwell, North Lanarkshire, ML1 5TB (“the Property”)**

**Parties:**

**Warren Barnett Limited, 3 Hagley Court South, The Waterfront Level Street, Brierley Hill, West Midlands, DY5 1XE (“the Applicant”)**

**Mr Stephen Asken, 58 Manse View, Motherwell, North Lanarkshire, ML1 5TB (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (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”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 27<sup>th</sup> March 2023. The application was submitted under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 10<sup>th</sup> May 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 14<sup>th</sup> June 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 31<sup>st</sup> May 2023.

3. On 11<sup>th</sup> May 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 11<sup>th</sup> May 2023.
4. On 11<sup>th</sup> May 2023, the Respondent emailed the Housing and Property Chamber advising that he was to leave the Property at the end of the month. He had lost his job and had issues with Universal Credit. He wished to enter into a payment plan to address the arrears.
5. On 25<sup>th</sup> May 2023, the Applicant emailed the Housing and Property Chamber requesting the amount sought in the conjoined case to be increased to £4000. This included a rent statement for the period 10<sup>th</sup> February 2022 to 12<sup>th</sup> May 2023.
6. The case was conjoined with case FTS/HPC/EV/23/1016.

#### The Case Management Discussion

7. A CMD was held on 14<sup>th</sup> June 2023 at 10am by teleconferencing. The Applicant was represented by Ms Chloe Bannigan, solicitor, TC Young. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
8. Ms Bannigan said that the Respondent has not been in contact with the Applicant. The Applicant has tried to contact the Respondent many times by telephone but the Respondent has not been able to be contacted. Ms Bannigan said that the arrears have risen to £4450. The Respondent has not left the Property. She is not aware of any Universal Credit entitlement. Ms Bannigan said that the Respondent lives alone and is in his thirties. He had been employed as a labourer. He does not have any known vulnerabilities.

#### Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 12<sup>th</sup> February 2023. The Respondent has not left the Property.
10. The Respondent persistently failed to pay his rent charge of £450 per month. The rent payments are due to be paid on 12<sup>th</sup> day of each month. The last payment made was in September 2022.
11. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the CMD.
12. Various Pre Action Requirement letters were sent to the Respondent from the Applicant's agent.
13. There are no known outstanding Universal Credit issues.

14. The arrears now total £4450. This has increased since the application and conjoined application were lodged initially.
15. The Tribunal did not consider that there were any issues of reasonableness to prevent an order for eviction being granted.

### Decision

16. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant.

### **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.**

# G Miller

14<sup>th</sup> June 2023

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Legal Member/Chair

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Date