

**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/22/1161**

**Re: Property at Flat 6-1, 21 Randolph Gate, Jordanhill, Glasgow, G11 7DQ (“the Property”)**

**Parties:**

**Mr John Rice, Mrs Deborah Rice, Ellen, Ellenbank, Balmoral Road, Blairgowrie, Perthshire, PH10 7AF (“the Applicants”)**

**Mr Andrew Cairns, Flat 6-1, 21 Randolph Gate, Jordanhill, Glasgow, G11 7DQ (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicants submitted an application under Rule 109 for an order to evict the Respondent from the property.
2. By decision dated 8 June 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicants’ representative on 10 June 2022. Letters were issued on 14 July 2022 informing both parties that a case management discussion had been assigned for 18 August 2022 at 10am, which was to take place by conference call. In that letter, the parties were also told that they required to take part in the discussion and were informed that

the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 4 August 2022. No written representations were received by the Tribunal.

### **The case management discussion**

4. The Applicants were represented by Mrs Duncan and the second Applicant, Mrs Rice, was present on the call. The case management discussion took place by conference call and proceeded in the absence of the Respondent. The Applicants' representative explained that there has been no recent contact with the Respondent. The last contact the Respondent made was on 12 July 2022 when he contacted the office of the Applicants' representative by what's app message; the Respondent advised that he had returned the keys and was no longer resident in the property. Messages were exchanged and the Respondent advised that the Applicants "may have an unauthorised inhabitant human" in the property. No further information was provided by the Respondent. The Applicants' representative explained that no keys have been returned to the Applicants or their representative's office. The Applicants' representative attended at the property following the exchange of messages but were unable to gain access because the door had been locked from the inside and keys left in the lock. The Respondent is believed to live alone at the property. He is not known to have any disabilities or vulnerabilities. The Respondent has been in arrears of rent since April 2020. The Applicants reached agreement with the Respondent in relation to repayment of the arrears but the Respondent failed to adhere to that agreement. The Applicants previously obtained an order for payment in the sum of £6,700 in respect of rent arrears. Since that order was granted the Respondent has failed to pay rent. The level of rent arrears has increased to £12,070. The Applicants' representative has been made aware that the Respondent has applied for a trust deed, designing himself as being resident at another property in the same development. It was submitted that it was reasonable in the circumstances for an order for eviction to be granted.

### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 29 May 2019.
6. The Applicant's representative served Notice to Leave on the Respondent by email on 18 October 2021.
7. As at the date of the Notice served, the Respondent was in arrears of rent for more than 3 consecutive months.
8. As at the date of this case management discussion, the Respondent was in arrears of rent for more than 3 consecutive months.

### **Reason for Decision**

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondent failed to submit written representations and failed to participate in the case management discussion. There was no material before the Tribunal to indicate that the Respondent disputed the level of arrears. The Applicants had complied with the pre-action protocol and had reached agreement with the Respondent regarding payment of the arrears. The Respondent failed to adhere to that arrangement. The current level of rent arrears is substantial. The Tribunal was satisfied that ground 12 has been established and that it was reasonable to grant the order sought.

### **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.**

Nicola Irvine

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**Legal Member/Chair**

**18 August 2022**

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**Date**