



**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/20/0916**

**Re: Property at 13 Fintrie Terrace, Hamilton, South Lanarkshire, ML3 9QT (“the Property”)**

**Parties:**

**MacNair Property Limited, Glenbrook House, 22a Lesmahagow Road, Strathaven, ML10 6DA (“the Applicant”)**

**Mr Benjamin George Baird, 13 Fintrie Terrace, Hamilton, South Lanarkshire, ML3 9QT (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member)**

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

At the Case Management Discussion (“CMD”) the Applicant was not in attendance but was represented by Ms Waters of Cairn Estate & Letting Agents. The Respondent was neither present nor represented.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**Background**

- The Applicant is the heritable proprietor of the Property.
- The Respondent is the tenant of the Property in terms of a Tenancy Agreement signed on 24 and 30 November 2018 (“the Tenancy Agreement”).
- The start date of the tenancy is stated in the Agreement to be 24 November 2018.
- The Tenancy Agreement is a Private Residential Tenancy Agreement under the Private Housing (Tenancies)(Scotland) Act 2016 (“the Act”).

- In terms of the Agreement the rent payable by the Respondent was stated to be £350 per month payable in advance on the 24<sup>th</sup> day of each month.
- The Applicant's Representative served on the Respondent a valid Notice to Leave dated 7 February 2020. Service was effected by Sheriff Officers on 7 February 2020. The end of the notice period in terms of the Notice to Leave was 9 March 2020.
- The Respondent is not in occupation of the Property.
- As at the date of the Application to the Tribunal the rent arrears accrued were £956.

## **The Case Management Discussion**

### **Submissions for the Applicant:-**

At the CMD the Applicant's Representative stated:-

- That in April 2019 the monthly rent payable was adjusted downwards to £300. This was to reflect the fact that the Respondent was in receipt of either Housing Benefit or Universal Credit payable at the equivalent of £275.80 per month. The Respondent required to pay each month the difference between the rent due and the Housing Benefit/Universal Credit paid. He failed to do so.
- That since April 2020 the Housing Benefit/Universal Credit received by the Respondent has increased to £300 per month but the historic arrears remain due and are in a total sum of £980.25.
- That the Applicant's Representative cannot obtain any information on the benefits received by the Respondent or why the amount paid has recently increased.
- That the Applicant's Representative had previously submitted to the Tribunal an assisted access application which was granted in around late 2019/early 2020. Sheriff Officers attended and changed the locks. On taking entry it was clear the Respondent was not living at the Property. The Respondent has never asked for the new keys to the Property since then until Tuesday 11 August 2020 when he sent a text message to the Applicant's Representative asking to arrange access to pick up his remaining belongings. The Applicant's Representative has since tried to contact the Respondent without success
- That the Respondent has otherwise completely failed to communicate.
- That the Applicant seeks an order for the eviction of the Respondent.

The Applicant's Representative also invited the Tribunal to amend the Application in paragraph 5 by deleting the reference to "Ground 8" and substituting "Ground 12".

### **Reasons for Decision**

- The Tribunal allowed the amendment of the Application in paragraph 5 by deleting the reference to "Ground 8" and substituting "Ground 12".
- There exists between the parties a Private Residential Tenancy.
- A Notice to Leave has been properly served.
- The Respondent has been in arrears of rent for a continuous period of more than three consecutive months.
- The Respondent is due total arrears of rent that exceed one month's rent.

- The Respondent has had due intimation of this Application in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.
- The terms of Ground 12 of Part 3 of Schedule 3 of the Act are met and the Tribunal must therefore issue an eviction order.

### **Decision**

The Applicant is entitled to an order for eviction and the Tribunal made an order to that effect.

### **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.**



**12 August 2020**

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**Legal Member/Chair**