



**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/23/2920**

**Re: Property at 2/2 327 Kennedy Street, Glasgow, G4 0PR (“the Property”)**

**Parties:**

**Mr Omar Ali, c/o Arona Management Ltd, 17 Marine Crescent, Glasgow, G51 1HD (“the Applicant”)**

**Mr Iain Glen, 2/2 327 Kennedy Street, Glasgow, G4 0PR (“the Respondent”)**

**Tribunal Members:**

**John McHugh (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession of the Property should be made in favour of the Applicant.**

**Background**

The Applicant is the owner of the Property. The Respondent is the tenant of the Property in terms of a Private Residential Tenancy between the Applicant and the Respondent dated 22 February 2021. The Applicant has made an application to the Tribunal for eviction of the Respondent.

**The Case Management Discussion**

A Case Management Discussion was held on 13 December 2023 by telephone conference. The Applicant was represented by his solicitor, Mr Jain. The Respondent did not appear and was not represented. The Tribunal was satisfied that the Respondent had received notice of the hearing and resolved to proceed in his absence.

Mr Jain advised that the arrears had increased since the date of the application to £15200. No rent had been paid since April 2023. The Respondent had made various promises to pay but had not followed through with those. Mr Jain referred to a series of text messages where the Respondent had made various promises to pay but not kept to those promises. He was aware that the Respondent had referred to having been affected by the loss of employment and to physical and mental ill health as well as to being entitled to a settlement payment relating to his dispute with a former employer. Mr Jain had seen no evidence of any of these matters. He understands that the Respondent lives alone in the Property.

Mr Jain advised that the Applicant is a professional landlord. He did not claim that the Respondent's continued occupation without payment of rent would necessarily cause grave hardship but it did have a material effect upon the Applicant's business; the Applicant's other properties were subsidising the losses on the Property. The Applicant had been patient. The arrears were very significant and were increasing.

The Tribunal could see little evidence of pre-action measures having been taken to inform the Respondent of his rights. Mr Jain advised that the Respondent had claimed to have the benefit of legal advice and so should have been aware of the risks of the situation and of his rights.

## **Findings in Fact**

The Applicant is the owner of the Property.

The Respondent is the tenant of the Property in terms of a Private Residential Tenancy between the Applicant and the Respondent dated 22 February 2021.

The rent due under the tenancy agreement is £725/month.

Clause 8 of the tenancy agreement provides that interest will run at the rate of 8% a year on unpaid rent.

The Respondent first fell into arrears in March 2021. Payments have been sporadic since then.

As at the date of application the Respondent was in rent arrears of £12300.

The interest outstanding in terms of the tenancy agreement to 1 December 2023 is £1240.76.

No rent payments have been made since March 2023.

Rent arrears are now £15200.

The arrears are well in excess of six months' rent.

Notice to Leave was served on 20 July 2023 on the grounds of rent being outstanding over three consecutive months and substantial arrears (over six months' rent) being outstanding. Both grounds have been demonstrated.

### **Reasons for Decision**

The Tribunal requires to be satisfied that it would be reasonable to grant an eviction order. We have had regard to the fact that the Respondent is in occupation and if he is evicted, there will obviously be adverse consequences for him. The Respondent has in correspondence with the Tribunal and the Applicant claimed that he has been affected by ill health and the loss of employment although no evidence of those matters has been produced. We also note that the Applicant appears not to have issued any formal pre-action information to the Respondent. On the other hand, we note that the rental arrears are very significant and increasing to the Applicant's prejudice. Despite many representations to the effect that payments would be made, there has been little sign of this and the Tribunal is not in receipt of any information to suggest that it is likely that the Respondent will pay ongoing rent far less the substantial arrears. The last contact from the Respondent was a written communication to the Tribunal in which he indicated that a payment to account of the arrears would be made at the end of November. No payment was, in fact, made (not even that month's rent). There is no explanation from the Respondent for this. He has not attended the CMD. We consider the substantial arrears and the ongoing failure to pay to be very significant factors in favour of granting the order sought and accordingly we will do so.

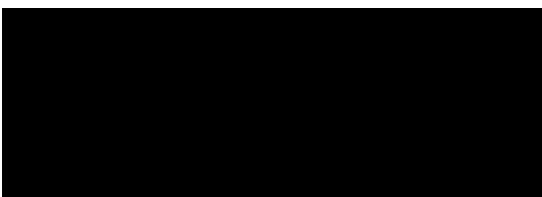
We will therefore grant the eviction on Grounds 12 and 12A contained in schedule 3 to the 2016 Act.

### **Decision**

An order for possession of the Property will be made 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.**



**Legal Member/Chair**

**13<sup>th</sup> December 2023**

**Date**