



**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/23/2894**

**Re: Property at Flat 18 Byzantium Apartments, 15 Hawkhill, Dundee, DD1 5DL (“the Property”)**

**Parties:**

**Razco Investments Limited, Vision Building, 20 Greenmarket, Dundee, DD1 4QB (“the Applicant”)**

**Ms Verona Downie, Mr Shane Crabb, Flat 18 Byzantium Apartments, 15 Hawkhill, Dundee, DD1 5DL; Flat 18 Byzantium Apartments, 15 Hawkhill, Dundee, DD1 5DL (“the Respondents”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Elizabeth Currie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondents from the property.**

**Background**

1. By application dated 21 August 2023 the Applicant’s representatives Campbell Both, Solicitors, Dundee, applied to the Tribunal for an order for the eviction of the Respondents from the property under Ground 12A of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted copies of pre-action letters sent to the Respondents together with a Notice to Leave, Section 11 Notice with proof of posting, a copy of the lease and a rent statement in support of the application.
2. Following further correspondence between the Applicant’s representative and the Tribunal administration a legal member of the Tribunal with delegated

powers by Notice of Acceptance dated 23 October 2023 accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 23 November 2023.
4. The Applicant’s representative submitted further written representations by email dated 15 December 2023.

### **The Case Management Discussion**

5. A CMD was held by teleconference on 16 January 2024. The Applicant was represented by Mr Alex Campbell from the Applicant’s representatives. The Respondents did not attend nor were they represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondents determined to proceed in their absence.
6. Mr Campbell confirmed that the original landlord company ASOG Ltd had been dissolved and the business transferred to the Applicant. Mr Campbell was uncertain if the Respondents had been given formal notice of the change of landlord. Mr Campbell went on to confirm that as far as he had been made aware by the letting agents the Respondents remained in occupation of the property. He said that they had advised the letting agents that they could not afford to pay the rent.
7. Mr Campbell confirmed that pre-action letters had been sent to the Respondents on 17 March 2023 and 5 June 2023. He was unaware of the Respondents taking any action in response to the letters.
8. Mr Campbell confirmed a Notice to Leave had been served on the Respondents on 21 June 2023 under Ground 12A of Schedule 3 of the 2016 Act and also that a Section 11 Notice had been sent to Dundee City Council on 21 August 2023.
9. Mr Campbell referred the Tribunal to the rent statement submitted on 15 December 2023 and explained that the Respondents now owed £11604.26 in rent.
10. In response to a query from the Tribunal Mr Campbell had little information about either the Applicant’s or the Respondents’ circumstances although he understood the Respondents were in employment and did not think they had children.
11. Mr Campbell asked the Tribunal to grant an order for the eviction of the Respondents from the property given the high level of rent arrears.

## **Findings in Fact**

12. The Respondents agreed to rent the property under a Private Residential Tenancy Agreement at a rent of £825.00 per calendar month.
13. The Applicant is the owner of the property and became landlord following the acquisition of the property from the previous landlord, ASOG Limited.
14. The Respondents have accrued rent arrears since about August 2022.
15. Pre-action letters were served on the Respondents on 17 March and 5 June 2023.
16. A notice to Leave was served on the Respondents on 21 June 2023 under Ground 12A of Schedule 3 of the 2016 Act.
17. A Section 11 Notice was intimated to Dundee City Council on 21 August 2023.
18. At the date of service of the Notice to Leave the Respondents owed rent of £7985.00 which is more than the equivalent of six months' rent.
19. At the date of the CMD the Respondents owed rent of £11604.26.

## **Reasons for Decision**

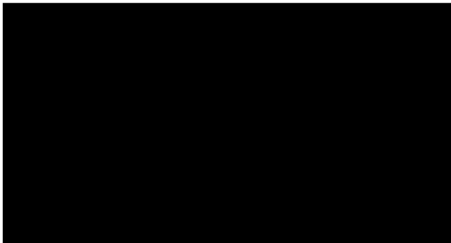
20. The Tribunal was satisfied from the information provided that the Respondents entered into a Private Residential Tenancy that commenced on 1 September 2020 at a rent of £825.00 per calendar month. The Tribunal was also satisfied that the Respondents fell into arrears of rent in about August 2022 and by the time a Notice to Leave under Ground 12A of Schedule 3 of the 2016 Act was served on them they were due £7985.00 in rent. This is the equivalent of more than 9 months' rent.
21. The Tribunal was also satisfied that pre-action letters had been sent to the Respondents providing them with information as to where they could obtain advice if they were experiencing financial difficulty.
22. The Tribunal was also satisfied that appropriate intimation of the proceedings had been sent to Dundee City Council by way of a Section 11 Notice.
23. Although the Tribunal had limited information both about the circumstances of the Applicant and the Respondents, given that the Respondents chose not to submit written representations or attend the CMD and were apparently in employment the Tribunal was satisfied given the very high level of rent arrears amounting to more than the equivalent of fourteen months' rent that it would in the circumstances be reasonable to grant an order for the eviction of the Respondents from the property.

## **Decision**

24. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for the eviction of the Respondent from the property.

### **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**

**16 January 2024**  
**Date**