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 ("The Act")

Chamber Ref: FTS/HPC/EV/23/1330

Re: Property at 39 Ravenscraig Road, Stewarton, KA3 5DB ("the Property")

Parties:

Mr Stuart Blackwood, The Robbs, Newleuchar Steading, Anguston Road, Westhill, Aberdeenshire, AB32 6BT ("the Applicant")

Mr Ionut Postolache, Ms Gina Madalina Portasa, 39 Ravenscraig Road, Stewarton, KA3 5DB ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondents)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under ground 12 of Schedule 3 of the Act. The Act is accompanied by a copy of the relevant tenancy agreement, the notice to leave with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and a rent statement.

[3] The Application previously called for a Case Management Discussion ("CMD"). The Application had been continued to a Hearing in person as the Respondents had explained that they required the services of a Romanian interpreter. Directions had also

been made obliging the Respondents to set out any defence to be relied on in writing in advance of the Hearing.

The Hearing

[4] The Application called for a Hearing, in person, at Glasgow Tribunal Centre at 10 am on 7 May 2024. The Applicant was present. The Respondents were not in attendance. They had received proper intimation of the Hearing date. They had also failed to comply with the terms of the Direction made. A Romanian interpreter was also in attendance for their benefit. The Tribunal decided to proceed in the absence of the Respondents.

[5] Having heard from the Applicant and considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact.

Findings in Fact

I. *The Applicant let the Property to the Respondents by virtue of a Private Residential tenancy within the meaning of the Act;*

II. *The contractual monthly rent was £495.00;*

III. *The Respondents fell into rent arrears and have not paid any rent since June 2023;*

IV. *The Applicant has made efforts to negotiate a payment plan and has signposted the Respondents to sources of financial support;*

V. *The Applicant competently served a notice to leave under ground 12 of Schedule 3 of the Act. Ground 12 was established at the date of service of the notice to leave;*

VI. *At today's date the sum of £7,020.00 is lawfully due as rent arrears by the Respondents to the Applicant;*

VII. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*

VIII. *The Respondents have failed to engage with the Tribunal process in that they did not comply with the Direction made to submit their position in writing in advance of the Hearing;*

IX. *There appears no prospect of the Respondents paying any rent or making good on any assurances to pay;*

Reasons for Decision

[6] Having made the above findings in fact, the Tribunal considered that the ground set out in the Notice to Leave was established. The Tribunal also considered that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application and made an Eviction Order.

Right of Appeal

[7] 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.

Andrew McLaughlin

_____   **7 May 2024**
Legal Member/Chair   Date