



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19 of the Housing (Scotland) Act 1988 (“The Act”)**

**Chamber Ref: FTS/HPC/EV/24/0034**

**Re: Property at 13 Tannadice Court, Dundee, DD3 7QB (“the Property”)**

**Parties:**

**Mrs June Robertson, 3 Stodrig Cottages, Kelso, TD5 7NZ (“the Applicant”)**

**Mr Steven Higgins, Miss Jean Reid, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Ahsan Khan (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. The Tribunal also made an order under Section 216(4) of the Bankruptcy and Diligence Act etc. (Scotland) Act 2007 dispensing with the requirement for service of a charge for removal.**

**Background**

**[2] The Applicant seeks an Eviction Order under Section 19 of the Act on the basis that grounds 11 and 12 of Schedule 5 of the Act are engaged and the relevant notice of intended proceedings in Form AT6 has been served on the Respondents. The Application was accompanied by: a copy of the relevant tenancy agreement; the relevant Form AT6 and evidence of service; the relevant notice under Section 11 of the *Homelessness (etc) (Scotland) Act 2003*; evidence of compliance with *The Rent Arrears pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020* and rent statements.**

## **The Case Management Discussion**

[3] The Application called for a Case Management Discussion (“CMD”) by conference call at 2pm on 13 May 2024. The Applicant was represented by her letting agent, Mr David Wilkie. There was no appearance by or on behalf of the Respondents. Permission for service of the Application on the Respondents by advertisement had previously been granted as their whereabouts could not reasonably be ascertained. The Tribunal therefore decided to proceed in the absence of the Respondents.

[4] The Tribunal heard from Mr Wilkie. He explained that the Respondents had abandoned the Property and it had been confirmed that they had since been re-accommodated by the local authority. The Respondents had left substantial rent arrears. They had left the Property in a scene of utter devastation. Photographs of the Property showed it to have been left with large piles of rubbish and debris at every turn. It appeared uninhabitable. It was difficult to imagine how such a mess could have been created. The Tribunal considered that it would take substantial time and money to make good the damage. Having heard from Mr Wilkie, the Tribunal made the following findings in fact:

### **Findings in Fact**

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondents on a Short-Assured Tenancy Agreement within the meaning of the Act;*
- II. *The Respondents fell into rent arrears;*
- III. *The Applicant served a notice under Section 19 of the Act on the basis that grounds 11 and 12 of Schedule 5 of the Act were established;*
- IV. *At the time of the service of the Form AT6, the sum of £1,214.93 was lawfully due as rent by the Respondents to the Applicant;*
- V. *No further rent has been paid since October 2023;*
- VI. *The Applicant has complied with The Rent Arrears pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and Section 11 of the Homelessness (etc) (Scotland) Act 2003;*
- VII. *The Respondents have found alternate accommodation but have left belongings in the Property and failed to return all the keys that they were provided with;*

- VIII. *They have left the Property in a state where it is no longer habitable;*
- IX. *There are potentially dangerous and unhygienic items in the Property. There might be petrol driven motorbikes buried under the debris of waste in the Property. This presents a fire hazard;*
- X. *Rent arrears continue to accrue;*
- XI. *The Respondents have not engaged with the Tribunal process.*

### **Reasons for Decision**

[5] Having made the above findings in fact, the Tribunal determined that grounds 11 and 12 of Schedule 5 of the Act were established. It was also reasonable to grant the Eviction Order. In addition, on the basis that the Respondents appeared to have found alternate accommodation but had left dangerous items in the Property, the Tribunal considered that there was an urgency in formally ending the tenancy and affording the Applicant the right to take such action as might be needed to remove the Respondents' belongings. The Tribunal therefore also made an order under Section 216 (4) of the *Bankruptcy and Diligence Act etc. (Scotland) Act 2007* dispensing with the requirement for service of a charge for removal.

### **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.**

**Andrew McLaughlin**

**Legal Member/Chair**

**13 May 2024**

**Date**