



**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/24/0137**

**Re: Property at 283 Charleston Drive, Dundee, DD2 4HN (“the Property”)**

**Parties:**

**J W Real Estate Limited, Europa House, Marsham Way, Gerrards Cross, SL9 8BQ (“the Applicant”)**

**George McIntyre, Ann-Marie McIntyre, 283 Charleston Drive, Dundee, DD2 4HN (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)**

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

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

**Background**

1. An application was received by the Housing and Property Chamber dated 28<sup>th</sup> November 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 27<sup>th</sup> March 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 2<sup>nd</sup> May 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 17<sup>th</sup> April 2024.

3. On 4<sup>th</sup> April 2024, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents by letterbox service. This was evidenced by Certificate of Intimation dated 4<sup>th</sup> April 2024.

#### The Case Management Discussion

4. A CMD was held on 2<sup>nd</sup> May 2024 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr David Gray, Senior Accredited Paralegal, Gilson Gray. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make any representations in advance of the CMD.
5. Mr Gray told the Tribunal that the last contact from the Respondents was in January 2024. At this point the First Named Respondent told Mr Gray that he was no longer receiving Disability Living Allowance for his grandson. The First Named Respondent had contacted Mr Gray to offer to pay £10 per week towards the arrears but was not able to pay the ongoing rent shortfall of £185 per month. As the amount of £10 per week did not address the full rent charge Mr Gray refused the offer of £10 per week to the arrears. Mr Gray said it is understood that the First Named Respondent's grandson was no longer living in the Property. The First Named Respondent had stated that he has not had Disability Living Allowance for his grandson in two years, approximately 2022, when it stopped. The previous landlord had accepted the shortfall not being paid and took payments of £365 per month. This is not accepted by the current Applicant. There was a transfer of ownership from the previous landlord to the current Applicant in July 2023. The arrears that had accrued up until that point had stayed with the previous landlord. Any current arrears are now for the period from July 2023 to date.
6. Mr Gray told the Tribunal that there are currently arrears of £3772.76. The last payment which has been made was at the end of April 2024. This was a small payment from Universal Credit of £46. There have been small amounts of Universal Credit payments and sporadic other payments but they have not met the ongoing rent charge. Mr. Gray noted that when he contacted the First Named Respondent, he had referred the Respondents on to get further advice as per the Pre Action Requirements letter.
7. Mr. Gray was not aware of any vulnerabilities that would prevent an order being granted. The Property has not been adapted for the Respondents.
8. The Tribunal was satisfied that in terms of ground 12 that the Respondents have been arrears of rent for a continuous period of three or more consecutive months. It is appropriate to grant an order for eviction.

#### Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 12<sup>th</sup> February 2018.

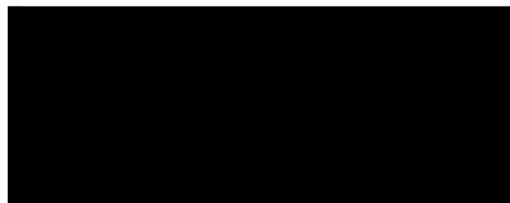
10. The Respondents have persistently failed to pay their rent charge of £550 per month. The rent payments are due to be paid in advance each month.
11. Arrears accrued to more than one month's rent payment at the date of application and was more than three months' rent payments at the date of the hearing.
12. There are no known outstanding Housing Benefit issues.
13. The arrears are £3772.76. This is higher than the amount detailed within the application which was £1650.
14. There are no issues of reasonableness that prevent an order from being granted.

### Decision

15. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant for eviction.

### **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.**



**G.Miller**  
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**Legal Member/Chair**

**2<sup>nd</sup> May 2024**

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**Date**