



**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/24/0283**

**Re: Property at Flat 2 G/L 341 Clepington Road, Dundee, DD3 8BA (“the Property”)**

**Parties:**

**WMB Properties Ltd, Murrayacre, Glencarse, Perth, PH2 7NJ (“the Applicant”)**

**Mr Liam Harvey, Flat 2 G/L 341 Clepington Road, Dundee, DD3 8BA (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Angus Lamont (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought to evict the Respondent from the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 10 April 2024 informing both parties that a CMD had been assigned for 21 May 2024 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision

today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 1 May 2024. No written representations were received.

4. On 9 May 2024, the Tribunal received an updated rent statement from the Applicant's representative.

#### **The case management discussion – 21 May 2024**

5. The CMD took place by conference call. The Applicant was represented by Miss Melissa Coleman. The Respondent did not join the conference call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/24/0284. The Applicant's representative explained that an up to date rent statement was lodged on 9 May 2024, which shows that the rent arrears have increased to £2,862.44. A copy of that rent statement had been sent to the Respondent. The Respondent is in receipt of partial housing benefit. The Respondent made proposals by email and to pay £100 per week towards the rent arrears but has failed to make those payments. The most recent payment made by the Respondent towards the rent account was for £250 on 28 March 2024. There has recently been a reduction in payment of housing benefit which would suggest that the Respondent has some income from employment. The Respondent is believed to have one dependent who does not live with him.

#### **Findings in Fact**

6. The parties entered into a private residential tenancy which commenced 5 May 2023.
7. The Applicant served Notice to Leave on the Respondent by email and recorded delivery on 3 November 2023.
8. The Respondent has been in rent arrears for more than three consecutive months.

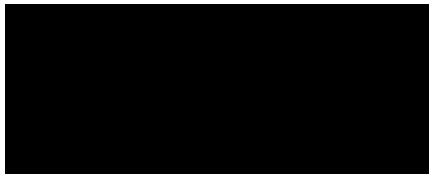
#### **Reason for Decision**

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent failed to participate in the CMD and failed to lodge any written representations. The rent statement produced demonstrates that the Respondent has been consistently in arrears of rent since June 2023, which was only one month after the tenancy started. Since the application was made, rent arrears have increased. The Tribunal was satisfied that ground 12 was established. The Respondent has proposed payment towards the rent arrears and despite promising to make payment, the Respondent has failed to make payment. Payment of rent is the

Respondent's primary obligation in terms of the tenancy agreement. The Respondent has been given fair notice of these proceedings. The tenancy appears to be unaffordable by the Respondent. In these circumstances, the Tribunal was satisfied that it was reasonable to grant the order 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.**



N.Irvine

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**Legal Member/Chair**

21 May 2024

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**Date**