Housing and Property Chamber
First-tier Tribunal for Scotland

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988 ("The Act")**

**Chamber Ref: FTS/HPC/EV/23/2663**

**Re: Property at 65 Crofton Avenue, Croftfoot, Glasgow, G44 5HY ("the Property")**

**Parties:**

**Mr David Wilson, Mr Graeme Neil Crichton, 54 Paidmyre Road, Glasgow, G77 5AJ; 1 Lynn Drive, Eaglesham, Glasgow, G76 0JJ ("the Applicant")**

**Amanda Campbell, 65 Crofton Avenue, Croftfoot, Glasgow, G44 5HY ("the Respondent")**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Gerard Darroch (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 Applicants seek an Eviction Order under Section 19 of the Act on the basis that grounds 8A, 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 Respondent. 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.

[3] The Application had previously called for a Case Management Discussion ("CMD"). The Respondent had failed to appear at that CMD. The Application was granted in her absence. The Respondent subsequently applied to have that decision recalled. That decision was recalled by a separate Tribunal. It is of note however, that the application for recall fell well short of setting out a defence or coherent reasons as to why the Application should not have been granted.

**The Case Management Discussion**

[4] The Application called anew for a further CMD by conference call at 2pm on 6 June 2024. The Applicants were represented by Ms Pauline Ward, Solicitor. There was no appearance by or on behalf of the Respondent. On 2 June 2024, the Respondent had emailed the Tribunal asking if the date could be moved as she wrote that she had a miscarriage and had a hospital appointment. This was a brief, one line email. It was framed as a question. No further communication had been received. The date and time of the CMD had been intimated to the Respondent by email on 23 May 2024. The Tribunal considered whether it was appropriate to proceed in the absence of the Respondent. In doing so, the Tribunal considered the whole circumstances of the case, including the recall process.

[5] The Tribunal observed that the Respondent had still not set out any relevant defence to the Application. There was no denial of the existence of the rent arrears founded upon. The Tribunal also noted that the brief email of 2 June was unaccompanied by vouching or sufficient detail. The Respondent had also previously made reference to wanting legal representation when she applied for recall, so it was unclear why now, the Respondent could not have a representative assist her with the CMD.

[6] The Tribunal considered that the prospect of there being three CMDs before the Applicants had fair notice of what any defence to the Application might be, to be unacceptable. The Tribunal did not blind itself to the issues involved in a miscarriage. Similarly, the Tribunal was not prepared to proceed on the basis that simply mentioning a serious, personal matter such as miscarriage, automatically ought to result in an adjournment. The lack of engagement and any statable defence led the Tribunal to conclude that it was in the interests of justice that the proceedings be delayed no further. The Tribunal therefore proceeded with the CMD in the absence of the Respondent.

[7] The Tribunal heard from Ms Ward. The rent arrears were now £12,691.83. No payments had been made at all since £100.00 was paid on 9 December 2022. The Respondent had failed to allow the Applicants to go about their business of conducting gas safety checks at the Property. The Respondent had failed to reply to the Applicants' letters sent in compliance with The Rent Arrears pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. The Respondent had failed to ever explain why she had stopped paying rent. The Applicants had made reasonable attempts to make sure that the rent arrears were not the result of any delay in payment of any state

benefit. The Respondent was thought to live in the Property with a partner and a grown-up child, but her failure to engage with the Tribunal and the Applicants meant that naturally her motivations and personal circumstances were largely unknown.

[8] Having heard from Ms Ward, the Tribunal made the following findings in fact.

**Findings in Fact**

I. *The parties entered into a tenancy agreement whereby the Applicants let the Property to the Respondent on a Short-Assured Tenancy Agreement within the meaning of the Act;*

II. *The Respondent fell into rent arrears;*

III. *The Applicants competently served a notice under Section 19 of the Act on the basis that grounds 8A,11 and 12 of Schedule 5 of the Act were established;*

IV. *The grounds relied on in the Form AT6 were established at the date of service and remain established.*

V. *No further rent has been paid since October 2023. The Respondent has failed to allow gas safety checks to be carried out thereby putting herself, her own family and other members of the public at risk.*

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. *Rent arrears continue to accrue;*

VIII. *The Respondent has not set out any coherent reason that might set out a defence or any argument as to why the Application should not be granted.*

**Reasons for Decision**

[5] Having made the above findings in fact, the Tribunal determined that grounds 8A, 11 and 12 of Schedule 5 of the Act were established. It was also reasonable to grant the Eviction Order. The Tribunal granted the Application.

**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

_ **6 June 2024**

**Legal Member/Chair** **Date**