



**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**

**Chamber Ref: FTS/HPC/EV/24/0210**

**Property: Flat 3/1, 15 Dixon Road, Glasgow G42 8AS ("Property")**

**Parties:**

**Coatbridge Property & Investment Co Ltd, 1 Auchingramont Road, Hamilton, Lanarkshire ML3 6JP ("Applicant")**

**Lindsays, Caledonian Exchange, 19A Canning Street, Edinburgh EH3 8HE ("Applicant's Representative")**

**Tom Brannigan, Flat 3/1, 15 Dixon Road, Glasgow G42 8AS ("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for possession of the Property should be made.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Short Assured Tenancy Agreement and AT5 dated 24 August 2010; Notice to Quit and Notice in terms of section 33 of the Housing (Scotland) Act 1988 ("1988 Act") both dated 19 July 2022; royal mail proof of delivery on 20 July 2022; form AT6 dated 21 December 2023; sheriff officer certificate of service of the AT6 on 22 December 2023; schedule of rent arrears and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 15 January 2024. The Tribunal had sight of a sheriff officer's execution of service confirming service of the Application on the Respondent on 5 June 2024. On 26 June the Applicant's Representative lodged an updated statement of rent arrears showing arrears of £11,430 and copy emails from the Applicant's letting agent to the Respondent.

## **Case Management Discussion (“CMD”)**

A CMD took place on 9 July 2024. Dylan Ackerley of the Applicant’s Representative was in attendance. Lesley Barclay of Happy Lets attended as an observer. There was no appearance by the Respondent. Mr Ackerley told the Tribunal that the Respondent had not lived in the Property for some months. He picked up the keys on 1 July and said he was moving out of the Property on 5 July 2024. He did not remove on that date apparently due to the lack of a removal van. The Applicant’s Representative told the Tribunal that the Respondent was in his 60s and is not in employment or in receipt of benefits. They said he lives with his mother. They said that there had been a leak in the Property in February 2024. The Applicant had to take entry to the Property and found that it had been unoccupied for some time and was uninhabitable due to the amount of rubbish in the Property and a rat infestation. It had cost the Applicant £3000 to clear the rubbish from the Property. Mr Ackerley said that the arrears began to accumulate in May 2018. He said that whilst rental payments had been maintained for a period there had been no attempt by the Respondent to clear the arrears.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a tenancy agreement dated 24 August 2010.
2. The tenancy was for the period 31 March 2010 to 31 March 2011.
3. A Notice to Quit dated 19 July 2022 was served on the Respondent on 20 July 2022 stating that the tenancy would terminate on 31 March 2023.
4. A Notice in terms of Section 33 of the 1988 Act dated 19 July 2022 was served on the Respondent on 20 July 2022 stating that possession of the property was required on 31 March 2023.
5. The tenancy reached its *ish* on 31 March 2023 and is not continuing by tacit relocation.
6. A Form AT6 in terms of section 19 of the 1988 Act was served on the Respondent on 22 December 2023.
7. The Respondent has persistently delayed paying rent which is lawfully due
8. At the date of service of the AT6 and the date of making the Application, rent lawfully due was unpaid.

9. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 18 of the 1988 Act. In terms of section 18 of the 1988 Act, the First-tier Tribunal may issue an eviction order against the tenant under a short assured tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 5 applies. In the AT6 the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 11 and 12. Ground 11 is that the tenant has persistently delayed paying rent which is lawfully due. Ground 12 is that rent lawfully due is unpaid on the date on which proceedings for possession are begun and was in arrears at the date of service of the AT6.

The Tribunal considered the statement of rent arrears provided and determined that grounds 11 and 12 had been established. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order

### **Decision**

The Tribunal grants an Order for possession of the Property.

### **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.**

# Joan Devine

Legal Member

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Date : 9 July 2024